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May 10, 2010

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Via Email & U.S. Mail

Caroline Lewis-Wolverton, Esq.
United States Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 883
Washington, District of Columbia 20044

Re: *Vietnam Veterans of America, et al. v. Central Intelligence Agency, et al.*, Case No.
C 09-00037 CW

Dear Counsel:

I write to follow up on your letter to Cathleen Stadecker dated February 26, 2010, specifically regarding Plaintiffs' intent to serve additional interrogatories.

On April 19, 2010, Plaintiffs filed a Motion to Compel Defendants' Responses to Plaintiffs' reduced set of interrogatories. As stated in that motion, and in our case management conference discussions that preceded it, Plaintiffs intend to serve additional interrogatories beyond the reduced set. As explained in the December 3, 2009 Updated Initial Joint Case Management Statement and reiterated again in letters dated January 11, 2010 and February 19, 2010, the nature and complexity of this case renders inadequate the default limit of 25 interrogatories. The sheer number of parties involved and the countless experimental projects conducted at Edgewood Arsenal and elsewhere justify an expansion beyond the default limit. Plaintiffs therefore once again invite Defendants to meet and confer to determine a reasonable expansion of the number of interrogatories.

With respect to this issue, your February 26, 2010 letter indicated that you were unwilling to meet and confer until receiving a description of Plaintiffs' potential additional interrogatories and how those interrogatories relate to the pending claims. In response to that concern, I enclose Plaintiffs' *Draft* Third Set of Interrogatories, which illustrates the range of topics that Plaintiffs' additional interrogatories may cover. These topics relate to the pending claims because they concern the nature of the experimental projects, the identity of putative class members, and Defendants' performance of (or failure to perform) their various duties.

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Caroline Lewis-Wolverton, Esq.
May 10, 2010
Page Two

You will note that many of the interrogatories in this Draft Third Set were originally served in Plaintiffs' First Set of Interrogatories but were provisionally withdrawn to arrive at the reduced set. Defendants have therefore been aware of many of the likely topics for additional interrogatories since November 2009.

Federal Rule of Civil Procedure 33(a) states that, "[l]eave to serve additional interrogatories may be granted to the extent consistent with Rule 26(b)(2)." Rule 26(b)(2) lists factors that would justify limiting discovery, the absence of which would concomitantly justify relaxing the limit. *See Flomo v. Bridgestone Americas Holding, Inc.*, No. 06-0627, 2009 WL 5103311, at *2 (S.D. Ind. Dec. 16, 2009) ("The Court should authorize additional interrogatories so long as they don't violate the general prohibitions on discovery found in Federal Rule of Civil Procedure 26(b)(2)." (citing Fed. R. Civ. P. 33(a)(1)). Addressing these factors, Plaintiffs submit:

1. The information sought is not "unreasonably cumulative or duplicative", nor is it "obtainable from some other source that is more convenient, less burdensome, or less expensive." Plaintiffs are seeking information regarding the projects and sub-projects conducted, test subjects who participated, government officials and others who were involved, and whether notice was provided to test subjects. Many of the witnesses, including the test subjects themselves, are difficult to locate due to the intervening passage of time. Defendants are the only source of the full breadth of this information, and the information sought is uniquely in Defendants' control. While third-party discovery might produce some piecemeal and likely incomplete results, Plaintiffs have no other convenient, less burdensome or less expensive source from which to meaningfully obtain this discovery. In particular, we note the fact that we lack information as to whether many of the actors in the chemical and biological weapons programs are alive or dead or where they live, or whether they might have copies of responsive documents that were destroyed by the Defendants.
2. Plaintiffs have not previously had "ample opportunity by discovery" to obtain this information. While Plaintiffs have received some raw documentation, Defendants have objected to many of Plaintiffs' discovery requests, including a blanket refusal to answer even 25 interrogatories – the subject of the pending Motion to Compel. Defendants have also extensively redacted the information that has been turned over.
3. The burden or expense of Defendants' answering these interrogatories does not "outweigh [] its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues." Plaintiffs' interrogatories will ask Defendants to describe, *inter alia*, hundreds of experimental projects and sub-projects that took place at Edgewood Arsenal. This information is critical to the core issues

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Caroline Lewis-Wolverton, Esq.
May 10, 2010
Page Three

in the case; its national importance clearly outweighs any burden involved in preparing answers to these interrogatories.

Furthermore, the limitation on the number of interrogatories is not intended to be fixed, but rather provides a routine trigger for the Court to ensure that a greater number is warranted given the circumstances of the case. “The goal of the limitation is ‘not to prevent needed discovery, but to provide judicial scrutiny before parties make potentially excessive use of this type of discovery.’” *Beckett v. Mellon Investor Servs., LLC*, No. 06-5245, 2010 WL 1417622, at *2 (W.D. Wash. Apr. 5, 2010) (quoting Fed. R. Civ. P. 33(a) Advisory Comm. Note, 146 F.R.D. 401, 675 (1993)); cf. *Protective Optics*, 2007 WL 963972, at *2 (“reasonable parties should stipulate to appropriate additional interrogatories in a complex case such as this one, rather than engage in motion practice.”). The volume and complexity of this case, as demonstrated by the number of parties, potential witnesses, and pertinent projects and sub-projects (MKULTRA alone had “149 discrete subprojects”¹), justifies an expansion beyond the default limit.

Accordingly, Plaintiffs ask that Defendants stipulate to a reasonable expansion of the default limit, allowing Plaintiffs to serve 60 additional interrogatories. Please confirm in no later than ten days that Defendants are willing so stipulate or, in the alternative, to meet and confer regarding this issue. If Defendants continue to refuse to meet and confer to discuss some reasonable expansion of the interrogatory limit, Plaintiffs intend to have this matter presented to the Court for resolution.

Very truly yours,


Gordon P. Erspamer

Enclosure

cc: Kimberly L. Herb, Esq. (by email)

¹ Defendant’s Renewed Notice of Motion and Motion for Summary Judgment for Lack of Causation at 5, *Ritchie v. U.S.*, No. 00-3940 (N.D. Cal. Nov. 7, 2003).

DRAFT

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 9 Veterans Rights Organization; Bruce Price; Franklin D.
 Rochelle; Larry Meirow; Eric P. Muth; David C. Dufrane;
 10 and Wray C. Forrest

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 OAKLAND DIVISION

15 VIETNAM VETERANS OF AMERICA, *et al.*,
 16 Plaintiffs,
 17 v.
 18 CENTRAL INTELLIGENCE AGENCY, *et al.*,
 19 Defendants.

Case No. CV 09-0037-CW

**PLAINTIFFS' [DRAFT] THIRD SET OF
 INTERROGATORIES TO ALL
 DEFENDANTS**

21 PROPOUNDING PARTIES: Plaintiffs Vietnam Veterans of America; Swords to Plowshares;
 22 Veterans Rights Organization; Bruce Price; Franklin D. Rochelle;
 Larry Meirow; Eric P. Muth; David C. Dufrane; and Wray C.
 23 Forrest

24 RESPONDING PARTIES: Defendants Central Intelligence Agency; Leon Panetta, Director of
 the Central Intelligence Agency; United States Department of
 25 Defense; Dr. Robert M. Gates, Secretary of Defense; United States
 Department of the Army; Pete Geren, United States Secretary of the
 26 Army; United States of America; and Eric H. Holder, Jr., Attorney
 General of the United States

27 SET NUMBER: Three

1 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiffs Vietnam Veterans
2 of America, Swords to Plowshares: Veterans Rights Organization, Bruce Price, Franklin D.
3 Rochelle, Larry Meirow, Eric P. Muth, David C. Dufrane and Wray C. Forrest (collectively,
4 "Plaintiffs") request that each of the named Defendants (collectively, "Defendants") separately
5 answer the following interrogatories based upon information within their possession, custody or
6 control, or the custody or control of their attorneys and/or accountants, their investigators and any
7 persons acting on their behalf, by _____.

8 **DEFINITIONS**

9 Unless otherwise indicated, the following definitions shall apply:

10 1. "COMMUNICATION" or "COMMUNICATIONS" means, unless otherwise
11 specified, any of the following: (a) any written letter, memorandum, DOCUMENT or any other
12 writing; (b) any telephone call between two or more PERSONS, whether or not such call was by
13 chance or prearranged, formal or informal; and (c) any conversation or MEETING between two
14 or more PERSONS, whether or not such contact was by chance or prearranged, formal or
15 informal, including without limitation, conversations or MEETINGS occurring via telephone,
16 teleconference, video conference, electronic mail (e-mail) or instant electronic messenger.

17 2. "CONCERNING" means constituting, summarizing, memorializing, referring to,
18 regarding and/or relating to.

19 3. "DOCUMENT" or "DOCUMENTS" means any tangible thing upon which any
20 expression, COMMUNICATION or representation has been recorded by any means, including
21 but not limited to, handwriting, typewriting, printing, photostatting, photographing, magnetic
22 impulse or mechanical or electronic recording and any non-identical copies (whether different
23 from the original because of notes made on such copies, because of indications that said copies
24 were sent to different individuals than were the originals or because of any other reason),
25 including but not limited to, working papers, preliminary, intermediate or final drafts,
26 correspondence, memoranda, charts, notes, records of any sort of MEETINGS, invoices, financial
27 statements, financial calculations, diaries, reports of telephone or other oral conversations, desk
28 calendars, appointment books, audio or video tape recordings, e-mail or electronic mail,

1 electronic folders, microfilm, microfiche, computer tape, computer disk, computer printout,
2 computer card and all other writings and recordings of every kind that are in YOUR actual or
3 constructive possession, custody or control.

4 4. "IDENTIFY" or "IDENTITY" means:

5 a. with respect to a PERSON, to state the PERSON's full name, current or
6 last known employer, that employer's address and telephone number, the PERSON's title and/or
7 position with that employer, and the PERSON's current or last known home address and
8 telephone number;

9 b. with respect to a DOCUMENT, to state the type of DOCUMENT (i.e.,
10 letter, memorandum, telephone note, computer floppy or hard disk, magnetic tape, etc.), the title
11 of the DOCUMENT (if any), the date it was created, the author, all intended recipients including
12 the addressee and any and all copyees, a brief description of the subject matter of the
13 DOCUMENT, the present and/or last known location of the DOCUMENT, and to IDENTIFY all
14 present or last known person in possession, custody or control of the DOCUMENT;

15 c. with respect to a COMMUNICATION, to state the name and affiliation of
16 all PERSONS participating in, or present for, the COMMUNICATION, the date of the
17 COMMUNICATION, and whether it was conducted in person or by other means (such as
18 telephone, correspondence, e-mail), and whether it was recorded (e.g., stenographically or by
19 audio or videotape);

20 d. with respect to a MEETING, to state the names and affiliations of all
21 PERSONS participating in, or present for, the MEETING, the date of the MEETING, and the
22 location of the MEETING and the purpose of the MEETING.

23 5. "MEETING" or "MEETINGS" means any coincidence of, or presence of, or
24 telephone, television, radio or other electronic communication between or among persons,
25 whether such was by chance or prearranged, informal or formal.

26 6. "PERSON" or "PERSONS" means, unless otherwise specified, any natural person,
27 firm, entity, corporation, partnership, proprietorship, association, joint venture, other form of
28 organization or arrangement and government and government agency of every nature and type.

1 7. "YOU" or "YOUR" means the Defendants in this action, and all of their past and
2 present offices, departments, organizations, administrations, boards, commissions, task forces,
3 management, and past and present employees and service members. These terms also include
4 any representatives or agents acting on YOUR behalf, including without limitation, attorneys,
5 investigators or consultants.

6 **SPECIAL DEFINITIONS**

7 Unless otherwise indicated, the following special definitions shall apply:

8 1. "CIA" means the Central Intelligence Agency of the United States, and all its past
9 and present offices, departments, organizations, administrations, boards, commissions, task
10 forces, management, and past and present employees and service members.

11 2. "DAIG" means the Department of the Army Inspector General, and all its past and
12 present offices, departments, organizations, administrations, boards, commissions, task forces,
13 management, and past and present employees.

14 3. "DEPARTMENT OF DEFENSE" or "DoD" means the United States Department
15 of Defense, and all its past and present offices, departments, organizations, administrations,
16 boards, commissions, task forces, management, and past and present employees and service
17 members.

18 4. "DEPARTMENT OF THE ARMY" or "DoA" means the United States
19 Department of the Army, and all its past and present offices, departments, organizations,
20 administrations, boards, commissions, task forces, management, and past and present employees
21 and service members.

22 5. "EDGEWOOD ARSENAL" means the southern sector of the military installation
23 located northeast of Baltimore, Maryland, in the Northern Chesapeake Bay along a neck of land
24 between the Gunpowder and Bush rivers.

25 6. "GAO" means the United States Government Accountability Office and all its
26 predecessors, offices, departments, organizations, administrations, boards, commissions, task
27 forces, management, and past and present employees.

1 7. “IOM” means the Institute of Medicine, a branch of the National Academies, and
2 all its predecessors, offices, departments, organizations, administrations, boards, commissions,
3 task forces, management, and past and present employees.

4 8. “NRC” means the National Research Council, a branch of the National
5 Academies, and all its predecessors, offices, departments, organizations, administrations, boards,
6 commissions, task forces, management, and past and present employees.

7 9. “NAS” means the National Academy of Sciences, a branch of the National
8 Academies, and all its predecessors, offices, departments, organizations, administrations, boards,
9 commissions, task forces, management, and past and present employees.

10 10. “VA” or “DVA” means the United States Department of Veterans Affairs, and all
11 its predecessors (including the Veterans Administration) and its past and present offices,
12 departments, organizations, administrations, boards, consultants, commissions, task forces,
13 management, and past and present employees.

14 11. “TEST PROGRAMS” means each of the projects identified in the Second
15 Amended Complaint, including without limitation, the Human Test Series identified in Paragraph
16 147 of the Second Amended Complaint, including Projects “BLUEBIRD,” “ARTICHOKE,”
17 “MKDELTA,” “MKULTRA,” “MKNAOMI,” “MKSEARCH,” “MKCHICKWIT,”
18 “MKOFTEN,” and any other program of experimentation involving human testing of any
19 substance, including but not limited to, “MATERIAL TESTING PROGRAM EA 1729.” TEST
20 PROGRAMS shall include any and all sub-projects related to any program of human testing
21 conducted by YOU.

22 a. “BLUEBIRD” means, including without limitation, the official code name given
23 in or around 1950 to the secret test program conducted by one or more of YOU
24 CONCERNING special interrogation methods, including the use of drugs,
25 hypnosis and isolation upon human TEST SUBJECTS.

26 b. “ARTICHOKE” means, including without limitation, the official code name given
27 in or around 1951 to the secret test program conducted by one or more of YOU
28 CONCERNING the study of special interrogation techniques and the use of

1 chemicals, among other methods, to produce amnesia and other vulnerable states
2 in human TEST SUBJECTS.

3 c. "MKDELTA" means, including without limitation, the official code name given in
4 or around 1952 to the secret test program conducted by one or more of YOU
5 CONCERNING the use of biochemicals in clandestine military operations.

6 d. "MKULTRA" means, including without limitation, the official code name given in
7 or around 1953 to the secret test program conducted by one or more of YOU
8 CONCERNING the surreptitious use of many types of drugs, as well as other
9 methods, to manipulate individual mental states and to alter brain function, and
10 that continued at least through the late 1960s.

11 e. "MKNAOMI" means, including without limitation, the official code name given
12 to the secret test program conducted by one or more of YOU CONCERNING the
13 stockpiling of severely incapacitating and lethal materials and the development of
14 gadgetry for the dissemination of these materials.

15 f. "MKSEARCH" means, including without limitation, the official code name given
16 in or around 1964 to the secret test program conducted by one or more of YOU
17 CONCERNING the development of methods to manipulate human behavior
18 through the use of drugs and other chemical substances.

19 g. "MKCHICKWIT" or "CHICKWIT" means, including without limitation, the
20 official code name given to the secret test program conducted by one or more of
21 YOU CONCERNING the identification of new drugs in Europe and Asia and
22 collection of information and samples CONCERNING same.

23 h. "MKOFTEN" means, including without limitation, the official code name given to
24 the secret test program conducted by one or more of YOU CONCERNING the
25 behavioral and toxicological effects of certain drugs on animals and humans.

26 i. "MATERIAL TESTING PROGRAM EA 1729" means, including without
27 limitation, the official code name given to the secret test program by one or more
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1 of YOU CONCERNING the testing of lysergic acid diethylamide (“LSD”) as an
2 intelligence-gathering technique.

3 12. “TEST SUBJECT” or “TEST SUBJECTS” means, unless otherwise specified, any
4 person who, while an active duty member of the U.S. military or a member of the reserves of any
5 branch of the U.S. Military, participated in any experiment that was part of, or related to, the
6 TEST PROGRAMS. For purposes of this definition, TEST SUBJECTS shall be deemed to have
7 participated in an experiment even if the TEST SUBJECT received only a placebo or if the TEST
8 SUBJECT declined to participate or withdrew “consent” after being initially selected for
9 participation. “TEST SUBJECTS” shall not, unless otherwise specified, include civilians who
10 participated in the TEST PROGRAMS.

11 CONSTRUCTION

12 The following rules of construction shall also apply:

- 13 1. “All” or “each” shall be construed as “all and each.”
- 14 2. “Any” should be understood to include and encompass “all;” “all” should be
15 understood to include and encompass “any.”
- 16 3. “And” or “or” shall be construed either disjunctively or conjunctively as necessary
17 to bring within the scope of the discovery request all responses that might otherwise be construed
18 to be outside of its scope.
- 19 4. The use of the singular form of any word shall include the plural and vice versa.

20 INSTRUCTIONS

21 The following instructions shall apply:

- 22 1. If YOU contend that any of the following interrogatories is objectionable in whole
23 or in part, YOU shall state with particularity each objection, the basis for it and the categories of
24 information and documents to which the objection applies, and YOU shall respond to the
25 interrogatory insofar as it is not deemed objectionable.
- 26 2. If YOU find the meaning of any term in these interrogatories unclear, YOU shall
27 assume a reasonable meaning, state what the assumed meaning is, and respond to the
28 interrogatory according to the assumed meaning.

1 3. The following interrogatories shall be deemed to be continuing. In accordance
2 with Federal Rules of Civil Procedure, Plaintiffs request that if, after answering the
3 interrogatories, YOU acquire additional knowledge or information responsive to the
4 interrogatories, that YOU shall produce such documents or provide Plaintiffs with such additional
5 knowledge or information.

6 4. Unless otherwise specified, each interrogatory calls for all documents created,
7 received, or dated between January 1, 1941 and the date of YOUR response to the interrogatory.

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1 **INTERROGATORIES**

2 **PREAMBLE TO ALL INTERROGATORIES:** Please provide separate answers for
3 each Defendant to the following Interrogatories:

4 **INTERROGATORY NO. 50:**

5 Please IDENTIFY all DOCUMENTS CONCERNING any and all health effects reported,
6 claimed, or that occurred for each TEST SUBJECT.

7 **INTERROGATORY NO. 51:**

8 For each TEST SUBJECT, IDENTIFY whether you believe the TEST SUBJECT to be
9 deceased, listing the date and cause of death for each.

10 **INTERROGATORY NO. 52:**

11 Please IDENTIFY all participants in the TEST PROGRAMS who you believe are
12 receiving disability compensation or health care from the DVA, and indicate whether or not that
13 health care or disability compensation is for a disease or condition associated with their
14 participation in the TEST PROGRAMS.

15 **INTERROGATORY NO. 53:**

16 Please IDENTIFY all testing personnel who suspended or abandoned the conduct of an
17 experiment in the TEST PROGRAMS based upon a concern for the health of the TEST
18 SUBJECT and describe the basis for each suspension or abandonment decision.

19 **INTERROGATORY NO. 54:**

20 Please IDENTIFY each experiment in the TEST PROGRAMS which involved a human
21 subject which was not preceded by animal experimentation, and explain why prior animal
22 experimentation was not done.

23 **INTERROGATORY NO. 55:**

24 For each participant in the TEST PROGRAMS, (a) please list his/her last known address
25 and telephone numbers; (b) please IDENTIFY each attempt to contact him/her and the METHOD
26 utilized (for example, by letter, e-mail, phone, or private investigator); (c) please indicate whether
27 or not the attempt was successful, giving the date of each successful attempt; and (d) please
28 IDENTIFY each participant whom YOU have made no attempt to contact.

1 **INTERROGATORY NO. 56:**

2 Please indicate the annual funding provided by the CIA for each of the TEST
3 PROGRAMS between 1943 and the present.

4 **INTERROGATORY NO. 57:**

5 For each experiment in the TEST PROGRAMS, please IDENTIFY each PERSON who
6 approved each experiment, including whether or not the Surgeon General gave his approval, and
7 IDENTIFY all approval DOCUMENTS.

8 **INTERROGATORY NO. 58:**

9 With respect to the projects and sub-projects involved in MKULTRA, and for each project
10 or sub-project in the TEST PROGRAMS, please IDENTIFY YOUR involvement in each,
11 including, without limitation, involvement in the organization, planning, design, operation,
12 analyses or receipt of results, financing, or any other type of involvement.

13 **INTERROGATORY NO. 59:**

14 Please IDENTIFY all PERSONS who contributed in any fashion or way to the design,
15 planning, operation, or results of the TEST PROGRAMS who formerly was a citizen of or lived
16 in Germany or Japan, including, without limitation, all individuals processed through "Operation
17 Paperclip," as described in Paragraph 8 of the Second Amended Complaint, and describe each
18 such contribution.

19 **INTERROGATORY NO. 60:**

20 Please IDENTIFY all PERSONS who worked as consultants or in any other capacity not
21 involving employment CONCERNING the TEST PROGRAMS and/or any sub-projects.

22 **INTERROGATORY NO. 61:**

23 For each experiment in the TEST PROGRAMS, including sub-projects, please
24 IDENTIFY all attesting witnesses to each and every consent document signed by a human
25 subject.

1 **INTERROGATORY NO. 62:**

2 Please IDENTIFY all military personnel who directed or participated in any mind control
3 experiments or studies, indicating their last known address and phone number.

4 **INTERROGATORY NO. 63:**

5 Please IDENTIFY all experiments with TEST SUBJECTS which involved the insertion of
6 any type of implant or foreign body or device (“Implant”), including, without limitation,
7 electrodes, into the brain of the TEST SUBJECT, including the name of each TEST SUBJECT,
8 the type and description of each Implant, the project name(s), location(s), result(s), and the
9 identity of medical or scientific personnel performing or observing each such experiment.

10 **INTERROGATORY NO. 64:**

11 Please IDENTIFY all locations other than Edgewood Arsenal or Fort Detrick where
12 experiments CONCERNING the TEST PROGRAMS were conducted, IDENTIFYING the nature
13 of the experiments, the sites, the dates they were conducted, whether or not testing was done on
14 humans, and the identity of such human test subjects, and IDENTIFY all DOCUMENTS relating
15 to the approval for each test, any signed consents, and advance disclosures to test participants.

16 **INTERROGATORY NO. 65:**

17 Please IDENTIFY all TEST SUBJECTS who were used to test biological substances,
18 including, without limitation, anthrax, plague, botulism, typhus, cholera, tularemia, encephalitis,
19 yellow fever, parrot fever, tetanus, streptococcus, or smallpox, at Edgewood Arsenal, Fort
20 Detrick, or offsite from those locations.

21 **INTERROGATORY NO. 66:**

22 For each TEST PROGRAM and any sub-projects that involved biological substances,
23 including, without limitation, the biological substances listed in Interrogatory No. 65, please
24 IDENTIFY all PERSONS who directed, approved, designed, carried out, or witnessed
25 experiments involving TEST SUBJECTS at Edgewood Arsenal, Fort Detrick, or offsite from
26 those locations.

1 **INTERROGATORY NO. 67:**

2 For each project and sub-project in the TEST PROGRAMS that involved biological
3 substances, please indicate whether or not YOU were involved in any way, and, if so, describe
4 that involvement in complete detail, and IDENTIFY all COMMUNICATIONS and
5 DOCUMENTS relating to that involvement.

6 **INTERROGATORY NO. 68:**

7 Please IDENTIFY all DOCUMENTS CONCERNING the TEST PROGRAMS which
8 YOU have withheld from public release or redacted and/or withheld from production to Plaintiffs
9 in this action based upon any of the following and state the specific basis for withholding or
10 redacting each DOCUMENT: a security classification or secrecy rationale, fear of adverse public
11 reactions, an absolute or qualified privilege, any executive order, or any exemption from
12 production contained in the Freedom of Information Act or any other statute or regulation.

13 **INTERROGATORY NO. 69:**

14 Please IDENTIFY all repositories, records, or files which contain DOCUMENTS
15 responsive to Plaintiffs' Request(s) for Production of Documents, indicating for each whether or
16 not the records were actually searched and whether responsive documents were found.

17 **INTERROGATORY NO. 70:**

18 Please IDENTIFY with as much detail as possible the types, contents, and subject matter
19 of all DOCUMENTS CONCERNING the TEST PROGRAMS that were destroyed by YOU,
20 including, without limitation, the occasions described in the Second Amended Complaint.

21 **INTERROGATORY NO. 71:**

22 Please describe the nature of the project(s) or program(s) redacted from the 1963 IG
23 Report as described in Paragraph 134 of the Second Amended Complaint.

24 **INTERROGATORY NO. 72:**

25 Please IDENTIFY each "separate file" for each sub-project kept or maintained in
26 connection with Paragraph (2)(a) of the April 21, 1953 "Memorandum for the File" regarding
27 Project MKULTRA, which is part of Exhibit B to the Second Amended Complaint.

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1 **INTERROGATORY NO. 73:**

2 Please IDENTIFY each “Memorandum for the File” prepared by the Division Chief for
3 each program described in Paragraph 2(b) of the April 21, 1953 “Memorandum for the File”
4 regarding Project MKULTRA, which is part of Exhibit B to the Second Amended Complaint.

5 **INTERROGATORY NO. 74:**

6 Please IDENTIFY all other DOCUMENTS prepared in connection with the April 21,
7 1953 “Memorandum for the File” regarding Project MKULTRA, which is part of Exhibit B to the
8 Second Amended Complaint, including, without limitation, memoranda addressed by the
9 Division Chief to the Comptroller, reports, correspondence with contract, invoices, approvals by
10 the Division Chief and Research Director, and memoranda to the Chief, Finance Division.

11 **INTERROGATORY NO. 75:**

12 Please IDENTIFY all experiments and programs that YOU were involved in (in any
13 capacity) which CONCERNED experiments or tests conducted by the DVA and which used
14 veterans as subjects.

15 **INTERROGATORY NO. 76:**

16 Please IDENTIFY all participants in the TEST PROGRAMS about whom YOU have had
17 COMMUNICATIONS with the DVA.

18 **INTERROGATORY NO. 77:**

19 To the extent YOU contend that any substance administered to a TEST SUBJECT as part
20 of the TEST PROGRAMS was for purposes of treatment of a medical disease or condition or
21 contributed to the health of TEST SUBJECT, please identify each such substance and explain
22 why it was intended for treatment purposes or to improve the health of the TEST SUBJECT, and
23 IDENTIFY all DOCUMENTS that support YOUR contention.

24 **INTERROGATORY NO. 78:**

25 To the extent YOU contend that any substance administered to any TEST SUBJECT as
26 part of the TEST PROGRAMS was innocuous or had no short or long-term health effects upon
27 the TEST SUBJECT, please identify each such substance and explain why it was innocuous or
28

1 had no short or long-term health effects upon the TEST SUBJECT, and IDENTIFY all
2 DOCUMENTS that support your contention.

3 Dated:

GORDON P. ERSPAMER
TIMOTHY W. BLAKELY
ADRIANO HRVATIN
STACEY M. SPRENKEL
MORRISON & FOERSTER LLP

6

7

By: _____
Gordon P. Erspamer
[Gerspamer@mofo.com]

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Attorneys for Plaintiffs

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