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7 Attorneys for Plaintiffs
Vietnam Veterans of America; Swords to
8 Plowshares; Veterans Rights Organization;
Bruce Price; Franklin D. Rochelle; Larry
9 Meirow; Eric P. Muth; David C. Dufrane; Tim
Michael Josephs; and William Blazinski

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VIETNAM VETERANS OF AMERICA, *et al.*,
Plaintiffs,
v.
CENTRAL INTELLIGENCE AGENCY, *et al.*,
Defendants.

Case No. CV 09-0037-CW

**DECLARATION OF STACEY
SPRENKEL IN SUPPORT OF
PLAINTIFFS' REPLY
MEMORANDUM IN SUPPORT OF
MOTION TO COMPEL DISCOVERY**

Complaint filed January 7, 2009

1 I, STACEY SPRENKEL, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am admitted
3 to practice before this Court. I am an associate with the law firm of Morrison & Foerster LLP,
4 counsel of record for Vietnam Veterans of America, Swords to Plowshares: Veterans Rights
5 Organization, Bruce Price, Franklin D. Rochelle, Larry Meirow, Eric P. Muth, David C. Dufrane,
6 Tim Michael Josephs, and William Blazinski ("Plaintiffs") in this action. I submit this
7 Declaration in Support of Plaintiffs' Reply Memorandum in Support of Motion to Compel
8 Discovery. I make this Declaration based on personal knowledge. If called as a witness, I would
9 testify to the facts set forth below.

10 2. Attached hereto as Exhibit A is a true and correct copy of an August 16, 2011
11 email from Lily Farel, counsel for Defendants, to Laura O'Neill, counsel for Plaintiffs, regarding
12 the documents that the Department of Veterans Affairs alleges are subject to identical and/or
13 substantially overlapping privileges. Exhibit A also includes the spreadsheet attachment
14 accompanying that email.

15 I declare under penalty of perjury under the laws of the United States of America that the
16 foregoing is true and correct and that this Declaration was executed in San Francisco, California
17 on this 15th day of September, 2011.

18
19 /s/ Stacey Sprenkel
Stacey Sprenkel

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Attestation Pursuant to General Order 45, section X.B

I hereby attest that I have on file all holograph signatures for any signatures indicated by a “conformed” signature (/S/) within this efiled document.

/s/ GORDON P. ERSPAMER

Gordon P. Erspamer

Exhibit A

From: Farel, Lily (CIV) [mailto:Lily.Farel@usdoj.gov]
Sent: Tuesday, August 16, 2011 10:56 AM
To: O'Neill, Laura Jean
Subject: VVA v CIA: list of privileged docs with DP and AC

Hi Laura,

Attached is a spreadsheet of the privileged documents Plaintiffs are challenging that contain identical and/or substantially overlapping deliberative process and attorney-client privileged information. Because Plaintiffs are not challenging VA's assertion of the attorney-client privilege, even if the Court agreed with Plaintiffs' challenge to the deliberative process designation, these documents would still be withheld under the attorney-client privilege.

Also, as we discussed yesterday, VA will not rely upon any document that has not been produced, not made available for inspection and copying, or is otherwise not publicly available.

I hope this helps narrow some of the issues in dispute.

Lily

Lily Farel
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Federal Programs Branch
U.S. Department of Justice, Civil Division
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Washington, DC 20530
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00834	VVA-VA 030309	Email	6/8/2006	Butler, Roscoe	Hyams, Kenneth Craig; Salvatore, Joe; cc: Dembling, Doug; Deyton, Lawrence R.; Brown, Mark; Heaphy, Kathleen A., VA staff attorney; Cross, Gerald M.	Discussion regarding authority to provide medical examinations to Edgewood Arsenal veterans and plans for future registries and providing edits to notice letter	DP, AC - Document produced with privileged portion redacted	8, 22
00835	VVA-VA 030310	Email	6/7/2006	Salvatore, Joe	Hyams, Kenneth Craig; email chain includes Heaphy, Kathleen A., VA staff attorney	Discussion regarding content of notice letter and providing edits to notice letter	DP, AC - Document produced with privileged portion redacted	8, 22
00836	VVA-VA 030311	Email	6/7/2006	Hyams, Kenneth Craig	Salvatore, Joe; email chain includes Heaphy, Kathleen A., VA staff attorney	Discussion regarding content of notice letter and providing edits to notice letter	DP, AC - Document produced with privileged portion redacted	8, 22
00837	VVA-VA 030312	Email	6/7/2006	Salvatore, Joe	Hyams, Kenneth Craig; Abbot, David, Baker, Gary M.; cc: Dembling, Doug; Deyton, Lawrence R.; Brown, Mark A.; Tran, Dat; Butler, Roscoe; Heaphy, Kathleen A., VA staff attorney; Cross, Gerald M.	Discussion regarding content of notice letter and providing edits to notice letter	DP, AC - Document produced with privileged portion redacted	8, 22
00838	VVA-VA 030313	Email	6/7/2006	Hyams, Kenneth Craig	Salvatore, Joe; Abbot, David; Baker, Gary M.; cc: Dembling, Doug; Deyton, Lawrence R.; Brown, Mark A.; Tran, Dat; Butler, Roscoe; Heaphy, Kathleen A., VA staff attorney; Cross, Gerald M.	Discussion regarding content of notice letter and providing edits to notice letter	DP, AC - Document produced with privileged portion redacted	8, 22
2797		Email	6/19/2006	Gary M. Baker	Roscoe Butler, Tony A. Guagliardo; CC: Rex D. Gilmore; Prior email discussion includes Kathleen A. Heaphy, VA Staff Attorney	Edits to notification letter & priority category for exams for Edgewood Arsenal veterans	DP, AC	22
00830- 00831	VVA-VA 030305- 030306	Email	6/8/2006	Butler, Roscoe	Hyams, Kenneth Craig; Salvatore, Joe; cc: Dembling, Doug; Deyton, Lawrence R.; Brown, Mark; Heaphy, Kathleen A., VA staff attorney; Cross, Gerald M.	Discussion regarding authority to provide medical examinations to Edgewood Arsenal veterans and plans for future registries and providing edits to notice letter	DP, AC, AWP - Document produced with privileged portion redacted	8, 22
00832- 00833	VVA-VA 030307- 030308	Email	6/8/2006	Hyams, Kenneth Craig	Butler, Roscoe; Salvatore, Joe; Abbott, David; Baker, Gary M.; cc: Dembling, Doug; Deyton, Lawrence R.; Brown, Mark A.; Tran, Dat; Heaphy, Kathleen A., VA staff attorney	Discussion regarding authority to provide medical examinations to Edgewood Arsenal veterans and plans for future registries and providing edits to notice letter	DP, AC - Document produced with privileged portion redacted	8, 22
1100 - 1101	VVA-VA 030396- 030397	Email	3/30/2006	Brown, Mark A (VHACO)	Abbot, David, VBAVACO; Wallick, Glen, VBAVACO; Salvatore, Joe; Hyams, Kenneth Craig, Dr., MPH, MD; McLendon, Mike	Discussion about adequacy of information in DoD list of chemicals & to which participants notice letters should be sent	DP, AWP - Document produced with privileged portion redacted	3,4,8
1170 - 1171		Email	12/7/2005	Hyams, Kenneth Craig, Dr., MPH, MD	Salvatore, Joe; Brown, Mark A (VHACO); Iran, Dat (VACO); McLendon, Mike; Wallick, Glen, VBAVACO; Abbot, David, VBAVACO; Tibbitts, Kim, VBAVACO	Discussion of what action VA will take in response to chemical database provided by DoD	DP, AWP (redacted)	8
2775- 2779		Email	8/12/2009	Gary M. Baker	Prior email discussion includes David J. Barrans, VA Deputy Assistant General Counsel	Discussion of how to respond to congressional inquiry about whether VA will provide medical card for Edgewood Arsenal veterans.	DP, AC	22
2780- 2786		Email	7/30/2009	Gary M. Baker	Rex D. Gilmore, Tony A. Guagliardo, Roscoe Butler ; CC: Philip Matkovsky, Jennifer L. Adams; Prior email discussion includes Susan Blauert, VA Staff Attorney	Discussion of how to interpret draft legislation to provide health care to members of Armed Forces with chemical exposures; comments on how VA's views of draft legislation should be developed	DP, AC	22
2792- 2796		Email	3/28/2008	Gary M. Baker	Tony A. Guagliardo; CC: Roscoe Butler, Les Niemiec, Patricia J. Gheen, Jennifer L. Adams, Rex D. Gilmore; Prior email discussion includes Walter A. Hall, VA Assistant General Counsel	Comments on legislative proposal to provide exams to veterans with chemical exposures and direction for development of information for process of further review of proposal; request for review of proposal	DP, AC	22

2801-2805		Email	3/10/2008	Roscoe Butler	Kimberly Hughes; CC: Tony A. Guagliardo, Rex D. Gilmore, Jennifer L. Adams; Prior email discussion includes Walter A. Hall, VA Assistant General Counsel	Comments on legislative proposal to provide exams to veterans with chemical exposures; request for review of proposal	DP, AC	22
2809-2812		Email	6/20/2006	Roscoe Butler	Tony Guigliardo, Gary M. Baker, CBO, Rex D. Butler; Prior email discussion includes Kathleen A. Heaphy, VA Staff Attorney	Edits to notification letter	DP, AC	3, 4, 8, 9
2813-2831		Email	6/7/2006	Roscoe Butler	Tony Guigliardo, Gary M. Baker, CBO: CC: Rex D. Butler; Prior email discussion includes Kathleen A. Heaphy, VA Staff Attorney	Email discussion regarding concurrence and content of CBRNE notification letter	DP, AC	3, 4, 8, 9
2838-2844		Email	7/30/2009	Rex D. Gilmore	Gary M. Baker, Tony A. Guagliardo, Roscoe Butler; CC: Philip Matkovsky, Jennifer L. Adams, Rex D. Gilmore; Prior discussion on this topic includes Susan Blauert, VA Staff Attorney	Discussion of how to interpret draft legislation to provide health care to members of Armed Forces with chemical exposures; comments on how VA's views of draft legislation should be developed	DP, AC	22
2845-2851		Email	7/30/2009	Rex D. Gilmore	Tony A. Guagliardo, Gary M. Baker, Roscoe Butler, Philip Matkovsky, Jennifer L. Adams, Rex D. Gilmore; Prior email discussion includes Susan Blauert, VA Staff Attorney	Discussion of how to interpret draft legislation to provide health care to members of Armed Forces with chemical exposures; comments on how VA's views of draft legislation should be developed	DP, AC	22
2852-2857		Email	7/29/2009	Rex D. Gilmore	Rex D. Gilmore, Tony A. Guagliardo, Roscoe Butler ; CC: Philip Matkovsky, Jennifer L. Adams, Rex. D. Gilmore; Prior email discussion includes Susan Blauert, VA Staff Attorney	Discussion of how to interpret draft legislation to provide health care to members of Armed Forces with chemical exposures; comments on how VA's views of draft legislation should be developed	DP, AC	22
2858-2863		Email	7/28/2009	Rex D. Gilmore	Tony A. Guagliardo, Gary M. Baker, Roscoe Butler; CC: Philip Matkovsky, Jennifer L. Adams, Rex D. Gilmore; Prior email discussion includes Susan Blauert, VA Staff Attorney	Discussion of how to interpret draft legislation to provide health care to members of Armed Forces with chemical exposures; comments on how VA's views of draft legislation should be developed	DP, AC	22
2878-2883		Email	7/28/2009	Tony A. Guagliardo	Gary M. Baker, Rex D. Gilmore, Roscoe Butler; CC: Philip Matkovsky, Jennifer L. Adams; Prior email discussion includes Susan Blauert, VA Staff Attorney	Discussion of how to interpret draft legislation to provide health care to members of Armed Forces with chemical exposures; comments on how VA's views of draft legislation should be developed	DP, AC	22
2884-2888		Email	7/28/2009	Tony A. Guagliardo	Jennifer L. Adams, Rex D. Gilmore; Prior email discussion includes Susan Blauert, VA Staff Attorney	Discussion of how to interpret draft legislation to provide health care to members of Armed Forces with chemical exposures; comments on how VA's views of draft legislation should be developed	DP, AC	22
2912-2917		Email	7/28/2009	Tony A. Guagliardo	Gary M. Baker, Rex D. Gilmore, Roscoe Butler; CC: Philip Matkovsky, Jennifer L. Adams; Prior email discussion includes Susan Blauert, VA Staff Attorney	Discussion of how to interpret draft legislation to provide health care to members of Armed Forces with chemical exposures; comments on how VA's views of draft legislation should be developed	DP, AC	22
2921-2925		Email	7/28/2009	Tony A. Guagliardo	Jennifer L. Adams, Rex D. Gilmore; Prior email discussion includes Susan Blauert, VA Staff Attorney	Discussion of how to interpret draft legislation to provide health care to members of Armed Forces with chemical exposures; comments on how VA's views of draft legislation should be developed	DP, AC	22
2958-2961		Email	3/5/2008	Tony A. Guagliardo	Gary M. Baker; CC: Roscoe Butler; Prior email discussion includes Walter A. Hall, VA Assistant General Counsel	Description of process for reviewing legislative proposals approved by HAC Senior Leadership, and forwarding legislative proposals, including proposal to provide exams to veterans with chemical exposures	DP, AC	22
2989-2993		Email	3/5/2008	Tony A. Guagliardo	Gary M. Baker; CC: Roscoe Butler; Prior email discussion includes Walter A. Hall, VA Assistant General Counsel	Description of process for reviewing legislative proposals approved by HAC Senior Leadership, and forwarding legislative proposals, including proposal to provide exams to veterans with chemical exposures	DP, AC	22

3015-3020		email	4/19/2006	Baker, Gary M., HEC	McLendon, Mike; Brown, Mark A (VHACO); Guagliardo, Tony A.; Salvatore, Joe; Abbot, David, VBAVACO; Hyams, Kenneth Craig, Dr., MPH, MD cc: Tibbitts, Kim, VBAVACO; Wallick, Glen, VBAVACO; Kelly, Matt, HRC; Butler, Roscoe	Comments on proposed content of draft notice letter to Edgewood Arsenal veterans & request for same, and discussion of authority to provide medical care to Edgewood Arsenal veterans	DP, AC	3, 4, 5, 8, 12, 21
3083-3084	VVA-VA 031124-031125	email without attachment	6/19/2006	Baker, Gary M., HEC	Butler, Roscoe; Guagliardo, Tony A. cc: Gilmore, Rex D; Prior email discussion includes Kathleen A. Heaphy, VA Staff Attorney	Discussion about VA authority to provide examination to Edgewood Arsenal veterans and content of draft notice letter	DP, AC - Document produced with privileged portion redacted	3, 4, 5, 8, 22
3085-3086	VVA-VA 031126-031127	email without attachment	6/7/2006	Gilmore, Rex D	Butler, Roscoe cc: Gilmore, Rex D.; Prior email discussion includes Kathleen A. Heaphy, VA Staff Attorney	Discussion about VA authority to provide examination to Edgewood Arsenal veterans and content of draft notice letter	DP, AC - Document produced with privileged portion redacted	3, 4, 5, 8, 22
3095-3100		email without attachment	7/28/2009	Guagliardo, Tony A.	cc: Matkovsky, Philip (SES); Adams, Jennifer L. (VHACO); Prior email discussion includes Susan Blauert, VA Staff Attorney	Discussion of VA's views on draft legislation to provide health care to members of Armed Forces with chemical exposures	DP, AC	18, 22
3101-3106		email	6/7/2006	Heaphy, Kathleen A., VA Staff Attorney	Baker, Gary M., HEC; Harbin, Lynne, HEC; Butler, Roscoe; Guagliardo, Tony A.	discussion re notification letter and authority to provide exams and medical care to Edgewood Arsenal veterans	AC, DP	3, 4, 5, 8, 22
3107-3110		email	6/6/2006	Heaphy, Kathleen A., VA Staff Attorney	Butler, Roscoe; Baker, Gary M., HEC; Guagliardo, Tony A. cc: Robinson, Richard R. (OGC), VA Staff Attorney	Discussion regarding notification letter, authority to provide exams and medical care to Edgewood Arsenal veterans and decisions regarding examination process management	AC, DP	3, 4, 5, 8, 22
3111-3115		email	6/6/2006	Heaphy, Kathleen A., VA Staff Attorney	Baker, Gary M., HEC; Butler, Roscoe; Guagliardo, Tony A.	Discussion regarding notification letter, authority to provide exams and medical care to Edgewood Arsenal veterans and decisions regarding examination process management	AC, DP	3, 4, 5, 8, 22
3116-3118		email	5/24/2007	Brown, Mark A (VHACO)	Heaphy, Kathleen A., VA Staff Attorney; Guagliardo, Tony A.; Butler, Roscoe; Salvatore, Joe	discussion re priority group status for Edgewood Arsenal veterans	AC, DP	22
3119-3122		email	6/6/2006	Heaphy, Kathleen A., VA Staff Attorney	Butler, Roscoe	Discussion regarding notification letter, authority to provide exams and medical care to Edgewood Arsenal veterans and decisions regarding examination process management	AC, DP	3, 4, 5, 8, 22
3123-3125		email	5/23/2007	Guagliardo, Tony A.	Heaphy, Kathleen A., VA Staff Attorney; Butler, Roscoe; Brown, Mark A (VHACO); Salvatore, Joe	discussion re priority group status for Edgewood Arsenal veterans	AC, DP	22
3126-3128		email	5/23/2007	Heaphy, Kathleen A., VA Staff Attorney	Guagliardo, Tony A.; Butler, Roscoe; Brown, Mark A (VHACO); Salvatore, Joe	discussion re priority group status for Edgewood Arsenal veterans	AC, DP	22
3129-3131		email	5/23/2007	Heaphy, Kathleen A., VA Staff Attorney	Brown, Mark A (VHACO); Butler, Roscoe; Salvatore, Joe	discussion re priority group status for Edgewood Arsenal veterans	AC, DP	22
3132-3134		email	5/23/2007	Guagliardo, Tony A.	Butler, Roscoe; Brown, Mark A (VHACO); Salvatore, Joe cc: Heaphy, Kathleen A., VA Staff Attorney	discussion re priority group status for Edgewood Arsenal veterans	AC, DP	22
3135-3136		email	5/23/2007	Brown, Mark A (VHACO)	Butler, Roscoe; Salvatore, Joe cc: Heaphy, Kathleen A., VA Staff Attorney; Guagliardo, Tony A.	discussion re priority group status for Edgewood Arsenal veterans	AC, DP	22

3230-3231		briefing paper	Unknown	John H. Thompson, Deputy General Counsel	Unknown	suggested responses to anticipated questions from congressional committee members	AC, DP, 5701, Privacy Act	18, 20, 21
3466-3470		email	8/12/2009	Baker, Gary M., (SES) CBO	Lutes, Linda; Cassano, Victoria cc: (some names are covered by a piece of paper scanned in) Butler, Roscoe; Gilmore, Rex D.; Adams, Jennifer; Patterson, Ann (SES), Barrans, David J., VA Deputy Assistant General Counsel	Discussion of how to respond to congressional inquiry about info provided by DoD to VA re Edgewood Arsenal testing and treatment authority	AWP, DP, AC	9, 18, 22
3626-3627		email	9/7/2006	Abbot, David, VBAVACO	Brown, Mark A (VHACO); Tibbitts, Kim, VBAVACO cc: Salvatore, Joe; Hyams, Kenneth Craig, Dr., MPH, MD; Wallick, Glen, VBAVACO; Barrans, David, VA Deputy Assistant General Counsel; Deyton, Lawrence R., MSPH, MD; et al.	Discussion of how to determine which veterans should receive Edgewood Arsenal notification letter	DP, AC	3, 4, 8
4325-4328		Email	8/13/2009	Lutes, Linda; email disucssion includes David Barrans, VA Deputy Assistant General Counsel; Martie Adelman, VA staff attorney; Christa Childers, VA staff attorney	Cassano, Victoria; Dembling, Doug; cc: Davey, Victoria; Deyton, Lawrence R.; Taub, Lauren	Request for documents responsive to subpoena for this litigation	AWP, AC	NR