

United States District Court
Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VIETNAM VETERANS OF AMERICA,
et al.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY,
et al.,

Defendants.

Case No.: 09-cv-0037 CW (JSC)

**ORDER RE: DEFENDANT'S
RESPONSE TO THE COURT'S JULY
19, 2012 ORDER (Dkt. No. 472)**

Now pending before the Court is Defendant Department of Veterans Affairs' ("DVA") response to the Court's July 19, 2012 Order (Dkt. No. 469) regarding the Court's *in camera* review of documents over which Defendant asserted the deliberative process privilege. (Dkt. No. 472).

The Court has reviewed the Mustard Gas Action Plan submitted with Defendant's response (Dkt. No. 472-1). Based on the Court's review of this document, the Court amends its prior Order to strike the requirement that Defendant produce the following document: DVA097 0260-0273. The Court sustains the deliberative process privilege assertion with respect to this document as Plaintiffs have the final version of the mustard gas white paper,

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i.e., the Mustard Gas Action Plan. However, the Court upholds its prior finding that Defendant shall produce DVA097 0357-0368, DVA097 0404-0410, DVA097 0426-0428 and DVA097 0411-0412. These documents are largely factual in nature and to the extent that they can be said to be deliberative the Court finds that their subject matter overlaps with, but is not subsumed within the Mustard Gas Action Plan, such that Plaintiffs have a substantial need for the information therein sufficient to overcome the qualified deliberative process privilege.

With respect to those matters regarding which Defendant seeks clarification, the Court responds as follows. The Court's Order inadvertently indicated that Defendant should produce DVA090 0472-0475 rather than DVA097 0472-0475. Similarly, the Court's Order referred to DVA090 0369-0379; this was a typographical error and should have read DVA090 0369-0370. Defendant shall produce DVA097 0472-0475 and DVA090 0369-0370.

This Order disposes of Docket No. 472.

IT IS SO ORDERED.

Dated: July 31, 2012



JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE