Exhibit EE

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February 2, 2012

Via Email

Mr. Gordon Erspamer, Esq.
Morrison & Foerster, LLP
425 Market Street
San Francisco, CA 94105-2482

RE: *Vietnam Veterans of Am., et al. v. CIA, et al.*, No. CV 09 0037-CW (N.D. Cal.)

Dear Mr. Erspamer:

I am writing in response to your January 31, 2012 letter regarding the Department of Defense's ongoing efforts to access the information contained on forty-year old magnetic tapes.

As an initial matter, your suggestion that somehow the magnetic tapes "can be read or converted" based upon the two responses to the RFI is unfounded, and there is certainly nothing in the RFIs that contradicts anything I have represented to the Court. Beyond that, as I have previously informed you, DLA is currently in the process of procuring the equipment that it believes may allow it to access the information, if any, on the magnetic tapes. As I understand it, DLA has determined that the tapes may have a density of 800 bpi, and is endeavoring to procure a board that will allow it to potentially retrieve such information.

In addition, I understand that once DLA modifies its hardware to read 800 bpi density technology, it does not guarantee that DLA will be able to retrieve any data that may be contained on those tapes. DLA has determined that four of the six tapes indicate "density unknown," while the other two tapes indicate "misload" or "blank." I understand that DLA believes that there is a better chance of successfully retrieving information from the tapes that indicate "density unknown," and that it most likely will not be able to retrieve any information on the two tapes identified as "misload" or "blank."

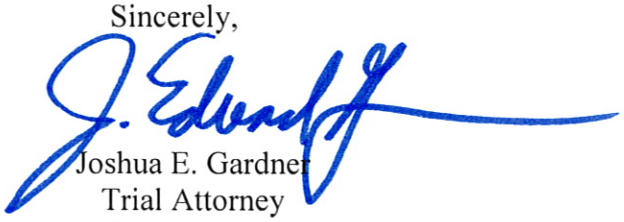
DLA estimates that it will take approximately ten days upon receipt of the funds to procure the tape drive that may support reading the tapes, and another week or two to set up the drive, extract any data from the tapes, and convert the information into .pdf format. To the extent the retrieval is successful, that information would then need to undergo declassification review. To the extent that review results in the declassification of the contents of the magnetic tapes, Defendants will promptly process the materials for production.

Beyond that, I cannot agree to your request that the Department of Justice provide "copies of communications between you and DLA concerning their assignment, reports of their progress, and the results obtained." Discovery has been over in this case for over a month, and, more fundamentally, you have failed to articulate how such information is relevant to the narrow claims remaining in this case. In addition, any communications would necessarily be protected by the attorney-client privilege or work product protection.

Finally, you request that "Defendants provide a witness to testify regarding the contents and authentication of the tapes and printouts previously produced." Defendants cannot agree to this request. Once again, fact discovery closed over one month ago, and you have provided no basis, let alone shown good cause, for reopening fact discovery. Indeed, ***after*** Defendants produced what they believe to be a partial printout of the magnetic tapes, Plaintiffs moved for leave to take 16 additional depositions. *See* Dkt. No. 307. At that time, Plaintiffs did not identify any desire to depose a Department of Defense or Department of the Army employee to testify regarding that partial printout. *Id.* Moreover, the Magistrate Judge expressly rejected the broad based discovery you sought, and limited Plaintiffs to 8 additional depositions. *See* Dkt. No. 325. Plaintiffs completed those 8 additional depositions on Tuesday, January 31, 2012. Accordingly, there is no basis to seek now yet more depositions regarding issues that Plaintiffs were well aware of prior to their most recent request for additional depositions.

Moreover, as we have repeatedly explained to you, Defendants are unaware of any current employee of the Department of Defense or Department of the Army who was substantively involved in the Edgewood Arsenal test program. Accordingly, Plaintiffs are in as good a position as Defendants to interpret any information contained in the partial printout that Defendants produced many months ago. Beyond that, on November 17, 2011, your colleague questioned Mr. Lloyd Roberts extensively concerning what is believed to be a partial printout from the magnetic tapes, and it is unclear what additional information you are seeking regarding that partial printout.

Sincerely,



Joshua E. Gardner
Trial Attorney
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