

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs, and

STATE OF WASHINGTON,

Plaintiff-Intervenor,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 2:17-cv-01297-MJP

**PLAINTIFFS’ RESPONSE TO THE
COURT’S MAY 4, 2020 REQUEST FOR
INFORMATION PRIOR TO MAY 13,
2020 STATUS CONFERENCE**

1 On May 4, 2020, the Court posed a number of questions to the Parties that it requested be
2 answered in advance of the May 13, 2020 Status Conference. Private Plaintiffs and Plaintiff-
3 Intervenor (collectively, Plaintiffs) hereby respond to the Court’s Question No. 4, which reads,
4 “Plaintiffs, if you have the final RAND reports, what is the relevance of the earlier drafts?”
5 Plaintiffs understand this to be the only question that requires a response from Plaintiffs, but to
6 the extent the Court would like Plaintiffs to respond to any other questions, Plaintiffs will do so
7 at the Court’s direction.

8 **A. Plaintiffs’ Response to Question No. 4.**

9 Plaintiffs requested production of the RAND Report drafts to rebut the Government’s
10 attempt to impugn the integrity and robustness of the Carter Working Group and the RAND
11 Report upon which its conclusions, in part, rely. While Plaintiffs believe that drafts of the RAND
12 Report satisfy the standard for relevance (*see* Dkt. No. 485 at 4 (“Under Rule 26, the concept of
13 relevance ‘has been construed broadly to encompass any matter that bears on, or that reasonably
14 could lead to other matter that could bear on, any issue that is or may be in the case.’”)) (citation
15 omitted))), Plaintiffs acknowledge that drafts of the RAND Report may be of incremental value
16 to the case as a whole relative to the final report. To that end, Plaintiffs are willing to stipulate
17 that the Government need not produce drafts of the RAND Report, provided that the
18 Government stipulates that it will not use the drafts to defend its case, including at depositions or
19 trial (*see* Fed. R. Civ. P. 37(c) (“If a party fails to provide information or identify a witness as
20 required by Rule 26(a) or (e), the party is not allowed to use that information or witness to
21 supply evidence on a motion, at a hearing, or at a trial . . .”))).

1 Respectfully submitted May 8, 2020.

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on May 8, 2020.

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