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9 *Attorneys for the Government Defendants*

10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**

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|----|--|---|-----------------------------------|
| 12 | |) | No. M:06-CV-01791-VRW |
| 13 | IN RE NATIONAL SECURITY AGENCY |) | |
| 14 | TELECOMMUNICATIONS RECORDS |) | GOVERNMENT DEFENDANTS' |
| 15 | LITIGATION |) | REPORT ON DECLASSIFICATION |
| 16 | <u>This Document Solely Relates To:</u> |) | REVIEW |
| 17 | <i>Al-Haramain Islamic Foundation et al.</i> |) | |
| 18 | <i>v. Obama, et al.</i> (07-CV-109-VRW) |) | Honorable Vaughn R. Walker |
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21 In its Order of January 5, 2009, the Court directed the Government Defendants to
 22 “review the Sealed Document and their classified submissions to date in this litigation and
 23 determine whether the Sealed Document and/or any of defendants’ classified submissions may
 24 be declassified, take all necessary steps to declassify those that they have determined may be
 25 declassified and, no later than forty-five (45) days from the date of this order, serve and file a

1 report of the outcome of that review.” *See* Dkt. 57 at 24-25.^{1/} The Government hereby reports,
 2 as set forth in the attached public declarations, that the classified information at issue in this case
 3 remains classified and is not subject to declassification under Executive Order (“E.O.”) 12,958,
 4 60 Fed. Reg. 19,825 (Apr. 17, 1995), as amended by E. O. 13,292, 68 Fed. Reg. 15,315 (Mar. 25,
 5 2003). *See* Declaration of John F. Hackett, Office of the Director of National Intelligence;
 6 Declaration of Joseph J. Brand, National Security Agency. The Government has also lodged
 7 classified declarations, solely for *in camera*, *ex parte* review, from these declarants and from
 8 Government counsel further addressing this declassification review. *See* Notices of Lodging
 9 Classified Declarations for *In Camera*, *Ex Parte* review of (i) John F. Hackett, Office of the
 10 Director of National Intelligence; (ii) Joseph J. Brand, National Security Agency; (iii) Anthony
 11 J. Coppolino, Department of Justice, Civil Division; (iv) Andrea M. Gacki, Department of the
 12 Treasury, Office of Foreign Assets Control. The Government’s *ex parte*, *in camera* classified
 13 submissions also address an inaccuracy contained in a prior submission by the Government, the
 14 details of which involve classified information that cannot be set forth on the public record. The
 15 matter does not alter the current classification determination submitted herewith.

16 Dated: February 27, 2009

Respectfully Submitted,

17 MICHAEL F. HERTZ
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20 *s/ Anthony J. Coppolino*
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 27 ¹ The Court granted a one week extension by Order dated February 20, 2009. *See* Dkt.
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