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22
 23 **UNITED STATES DISTRICT COURT**
 24 **NORTHERN DISTRICT OF CALIFORNIA**
 25 **OAKLAND DIVISION**

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|----|---|---|---------------------------------------|
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| 27 | CAROLYN JEWEL, <i>et al.</i> |) | Case No. 4:08-cv-4373-JSW |
| 28 | |) | |
| 29 | Plaintiffs, |) | CLASSIFIED DECLARATION |
| 30 | |) | OF MIRIAM P., |
| 31 | v. |) | NATIONAL SECURITY AGENCY |
| 32 | |) | EX PARTE, IN CAMERA SUBMISSION |
| 33 | NATIONAL SECURITY AGENCY, <i>et al.</i> |) | |
| 34 | |) | Date: October 31, 2014 and |
| 35 | |) | November 3, 2014 |
| 36 | Defendants. |) | Time: 9:00 a.m. |
| 37 | |) | Courtroom 5, 2 nd Floor |
| 38 | |) | The Honorable Jeffrey S. White |
| 39 | | | |
| 40 | | | |

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Classified *In Camera*, *Ex Parte* Declaration of Miriam P., National Security Agency
Jewel v. NSA (No. 4:08-cv-4873-JSW)

Classified By: NNA
 Derived From: NSA/CSSM/L-32
 Dated: 20070106
 Declassify On: 20070901

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1 (U) I, Miriam P., do hereby state and declare as follows:

2 2. (U) I am the Deputy Chief of Staff for Signals Intelligence (SIGINT) Policy and
3 Corporate Issues for the Signals Intelligence Directorate (SID) of the National Security Agency
4 (NSA), an intelligence agency within the Department of Defense.

5 3. (U) I am responsible for, among other things, protecting NSA SIGINT activities,
6 sources, and methods against unauthorized disclosures. Under Executive Order No. 12333, the
7 NSA SIGINT Directorate (SID) is responsible for the collection, processing, and dissemination
8 of SIGINT information for the foreign intelligence purposes of the United States. 46 Fed. Reg.
9 59941 (Dec. 4, 1981) as amended by Executive Order 13284 (2003), Executive Order 13355
10 (2004), 69 Fed. Reg. 53,593 (Aug. 27, 2004); Executive Order 13470 (2008), 73 Fed. Reg.
11 45325. I have been designated an original TOP SECRET classification authority under
12 Executive Order (E.O.) 13526, 75 Fed. Reg. 707 (Jan. 5, 2010), and Department of Defense
13 Manual No. 5200.1, Vol. 1, Information and Security Program (Feb. 24, 2012).

14 4. (U) My statements herein are based upon my personal knowledge of SIGINT
15 collection and NSA operations, the information available to me in my capacity as the Deputy
16 Chief of Staff for SID for SIGINT Policy and Corporate Issues, and the advice of counsel.

17 5. (U) I submit this declaration to advise the Court of particular operational details
18 of the NSA's "Upstream" collection of communications under Section 702 of the Foreign
19 Intelligence Surveillance Act ("FISA") that are implicated by Plaintiffs' Motion for Partial
20 Summary Judgment (ECF No. 261) ("Plaintiffs' motion"). Although the Government has
21 released to the public some information about NSA's Upstream collection, the operational details
22 discussed herein have not been officially disclosed and remain classified. Because disclosure of
23 this information could reasonably be expected to cause exceptionally grave damage to the
24 national security, it falls within the December 20, 2013, claim of the state secrets privilege made
25 by the Director of National Intelligence ("DNI") in this case, as well as NSA's claim of statutory

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privilege under Section 6 of the National Security Agency Act of 1959, Public Law No. 86-36 (codified at 50 U.S.C. 3601 *et seq.*). See Classified, *In Camera, Ex Parte* Declaration of Frances J. Fleisch, NSA ¶¶ 8, 44(B)(1)(b) (Dec. 20, 2013) (“Fleisch Decl.”).

6. ~~(TS//SI//NF)~~ [REDACTED]

7. ~~(TS//SI//NF)~~ I have reviewed the description in Plaintiffs’ motion of the Upstream collection process. [REDACTED]

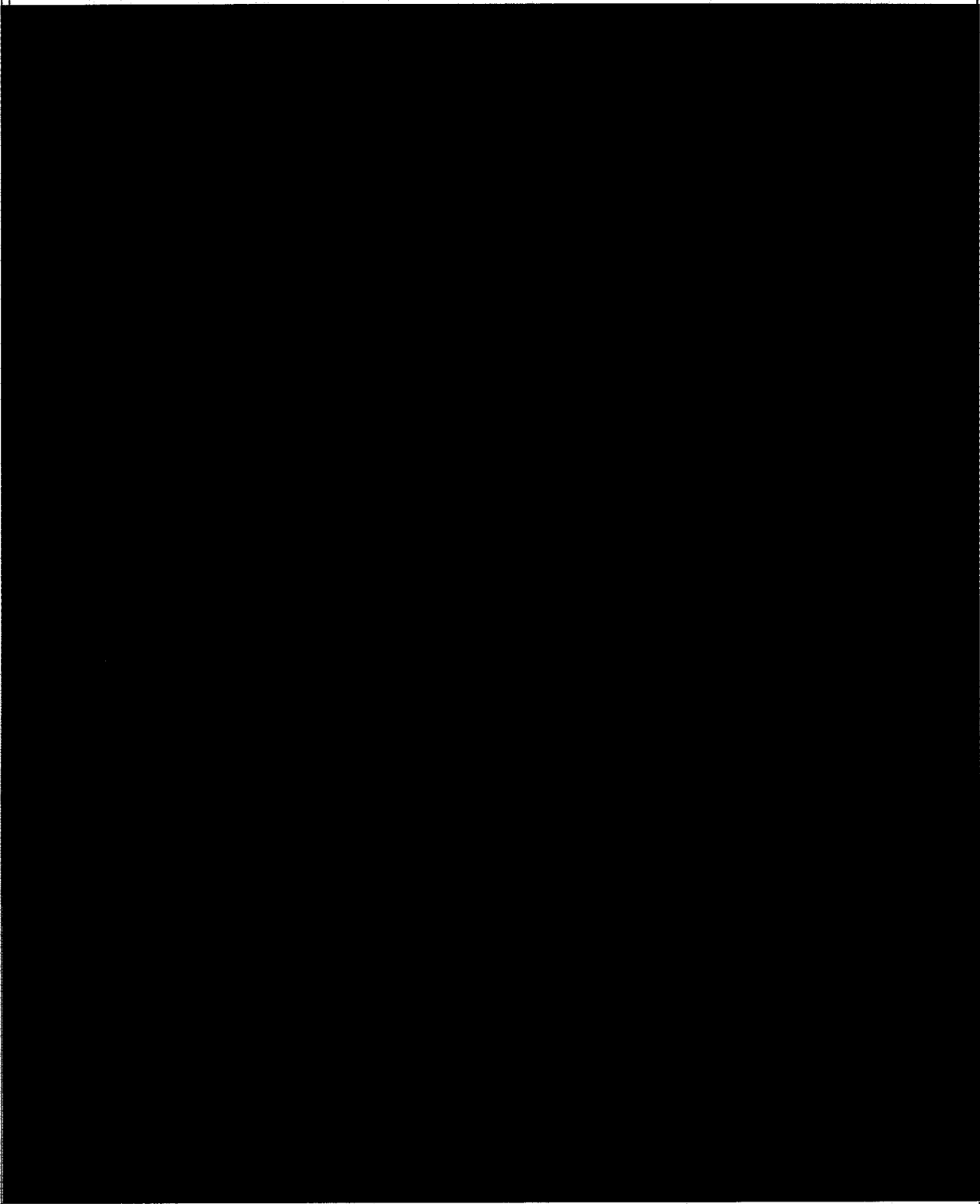
8. (U) First, Upstream collection under Section 702 is limited to the acquisition of communications, to, from, or about tasked selectors reasonably believed to be located outside the United States to acquire foreign intelligence information.

9. ~~(TS//SI//NF)~~ [REDACTED]

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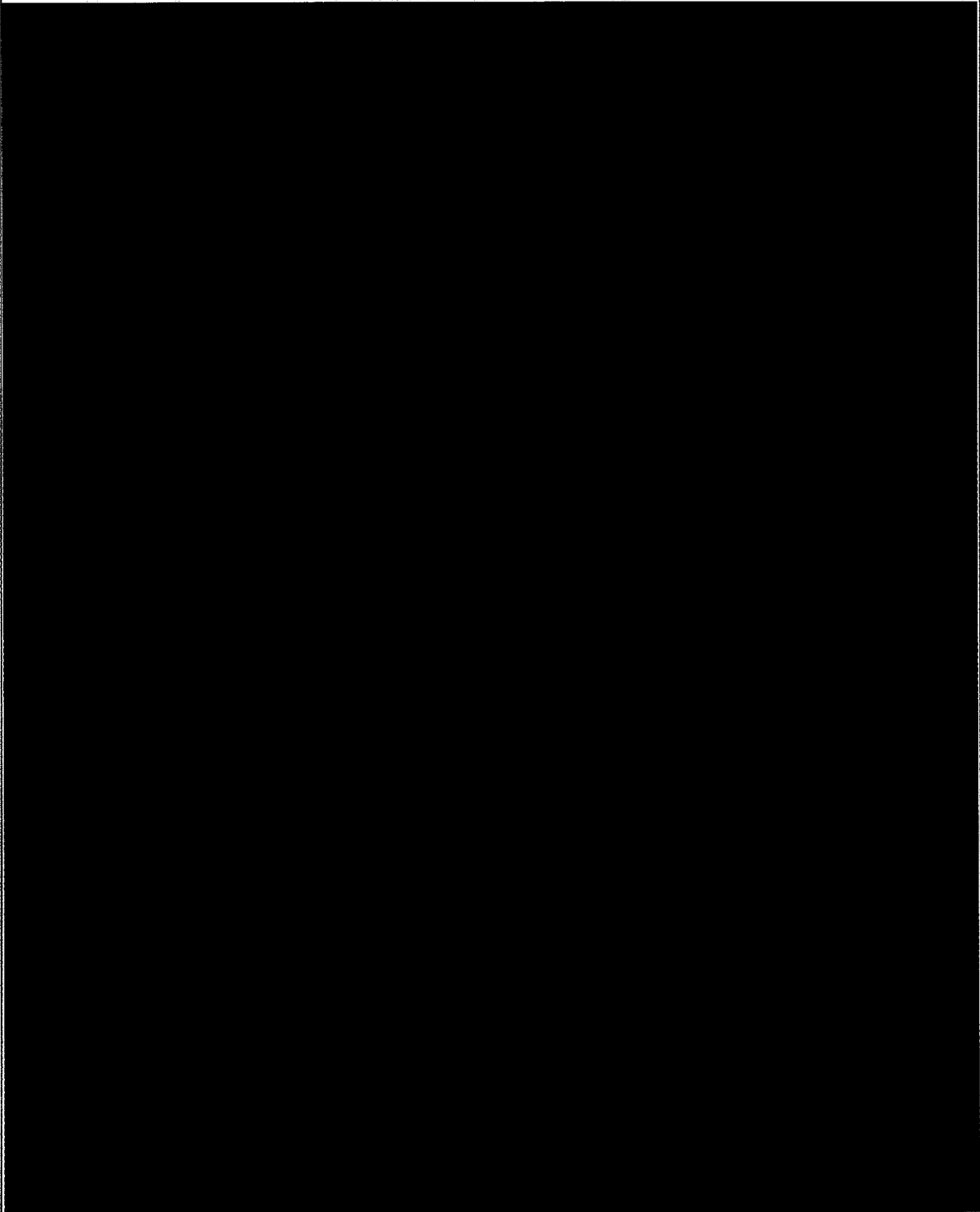
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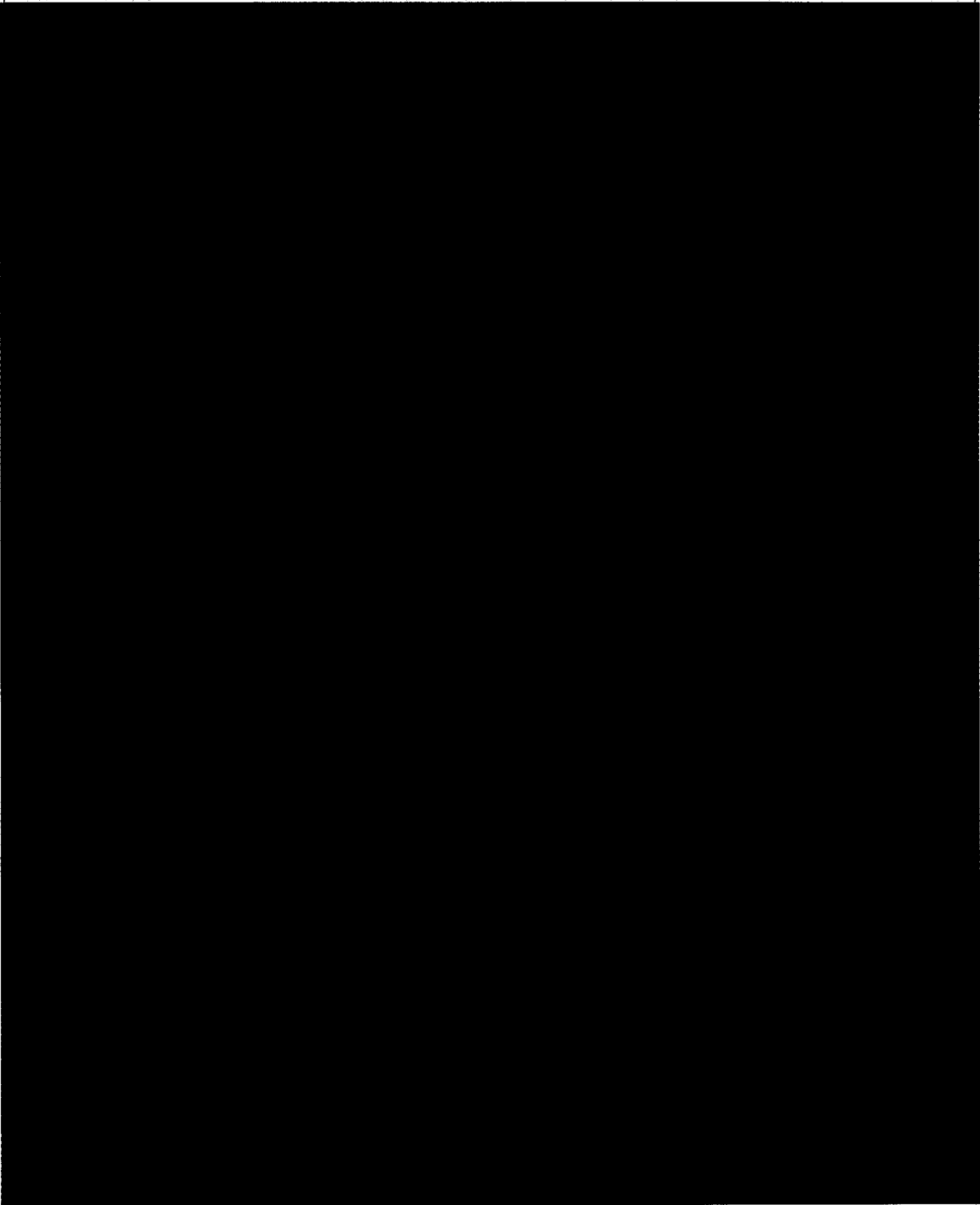
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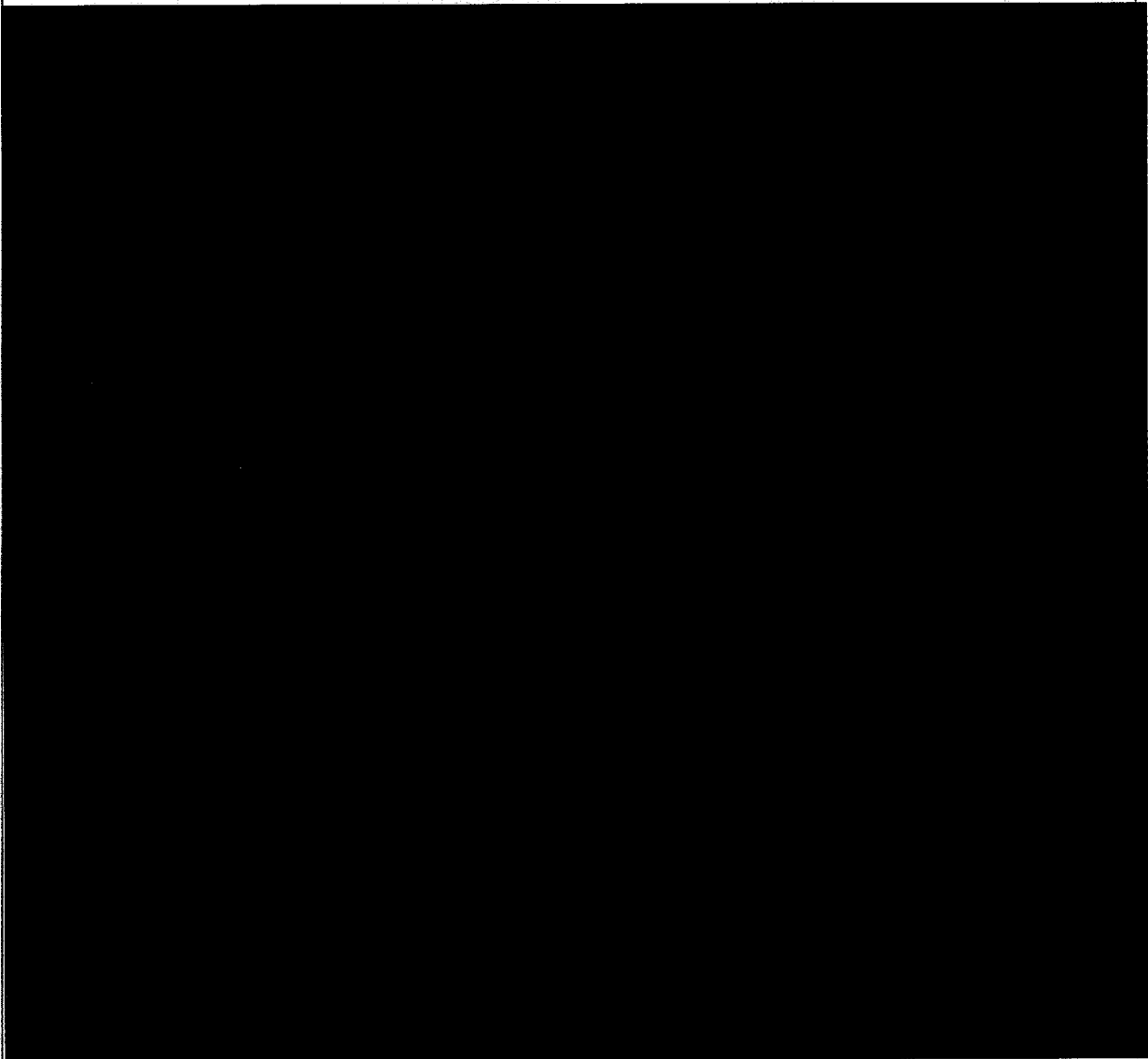
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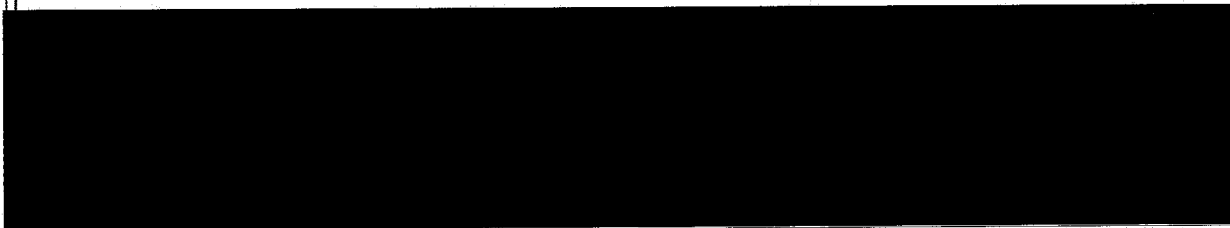
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16. ~~(TS//SI//NF)~~ The above operational details concerning the Upstream collection process, if disclosed, would provide our Nation's adversaries 



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1 [redacted] with unparalleled insight into exactly how the Upstream process works, and
2 [redacted] to further refine and advance their capabilities to avoid NSA
3 surveillance, [redacted]

4 [redacted]
5 [redacted]
6 [redacted]
7 [redacted]
8 [redacted]
9 [redacted]
10 [redacted]
11 [redacted]
12 [redacted]
13 [redacted]
14 [redacted]

15 17. (U) Therefore, this information falls within the scope of the DNI's assertion of the
16 state secrets privilege, and the NSA's assertion of statutory privilege under Section 6 of the
17 National Security Agency Act, and cannot be disclosed for purposes of addressing the allegations
18 in Plaintiffs' partial motion for summary judgment (or any other purpose) without risking
19 exceptionally grave damage to national security.

20
21 (U) I declare under penalty of perjury that the foregoing is true and correct.

22
23 DATE: 9/29/2014

24
25 Miriam P.
26

27 (U) Miriam P.
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