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ORIGINAL FILED
SEP 10 2012
LOS ANGELES
SUPERIOR COURT

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF LOS ANGELES

10 EAST DISTRICT

11 CALMAT CO. dba VULCAN MATERIAL)
COMPANY, WESTERN DIVISION, a)
12 Delaware corporation,)
13 Plaintiff,)
14 vs.)
15 SAN GABRIEL VALLEY GUN CLUB, a)
non-profit California corporation; and DOES)
16 1-1000, inclusive,)
17 Defendants.)

CASE NO: KC062582

**NOTICE OF MOTION AND MOTION OF
DEFENDANT SAN GABRIEL VALLEY
GUN CLUB TO COMPEL FURTHER
RESPONSES TO FORM
INTERROGATORIES (SET ONE) FROM
PLAINTIFF CALMAT CO. dba VULCAN
MATERIALS COMPANY, WESTERN
DIVISION; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF SCOTT M.
FRANKLIN**

**[Filed concurrently with Separate
Statement of Items in Dispute; and
[Proposed] Order]**

*Hon. R. Bruce Minto, presiding
(Matter Reassigned from Hon. Dan T. Oki)*

Date: October 2, 2012
Time: 8:30 a.m.
Dept.: H

24 ///

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on October 2, 2012, at 8:30 a.m. or as soon thereafter as the
3 matter may be heard, in Department H of the Los Angeles Superior Court, 400 Civic Center Plaza,
4 California, Defendant San Gabriel Valley Gun Club (the "Club") will and hereby does move this
5 Court for an order compelling Plaintiff CalMat Co. dba Vulcan Materials Company, Western
6 Division ("Vulcan") further produce responses to the Club's Form Interrogatories (Set One).

7 This motion is brought pursuant to Code of Civil Procedure sections 2030.220 and
8 2030.300, and is brought on the grounds that Vulcan has provided evasive, incomplete, and non-
9 responsive statements in response to certain form interrogatories propounded by the Club. A
10 declaration in conformance with Code of Civil Procedure section 2016.040 is provided herewith.

11 This motion is based upon this notice, the attached memorandum of points and authorities,
12 the supporting declaration of Scott M. Franklin, the separate statement of items in dispute
13 concurrently served and filed with this motion, upon all papers and pleadings currently on file
14 with the Court, and upon such oral and documentary evidence as may be presented to the Court at
15 the time of the hearing.

16 Dated: September 10, 2012

MICHEL & ASSOCIATES, P.C.

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19 _____
20 Scott M. Franklin, attorney for San Gabriel
21 Valley Gun Club

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 From approximately 1947 to 2006, the Club operated a shooting range and related
4 facilities on property leased from Vulcan or one of Vulcan’s predecessors in interest. On
5 September 4, 2008, Vulcan sued the Club in federal court. Vulcan’s federal case included claims
6 for relief alleging that Vulcan had been injured as a result of the ongoing presence of spent
7 ammunition at the previously-leased real property. Vulcan’s federal complaint comprised causes
8 of action under the Comprehensive Environmental Responsibility, Compensation, and Liability
9 Act (“CERCLA”) and under state law.

10 On October 22, 2011, in ruling on a motion for summary judgment brought by the Club,
11 the federal court ordered that Vulcan’s case be dismissed. The basis for that ruling was that: 1)
12 Vulcan’s CERCLA claims were not ripe for adjudication, and 2) the federal court was declining to
13 exercise supplemental jurisdiction over the remaining claims, which were all state law claims.

14 Vulcan filed the instant action on November 22, 2011. The instant action seeks damages
15 under contract and tort theories regarding the current condition of the property previously leased
16 by the Club.

17 **II. STATEMENT OF FACTS**

18 The Club served Form Interrogatories, Set One (“FI Set One”), on April 18, 2012.
19 (Declaration of Scott M. Franklin, [the “Franklin Decl.”] at ¶ 3). Pursuant to a courtesy extension
20 granted by the Club, Vulcan provided responses to FI Set One on June 13, 2012. (*Id.* at ¶ 4). The
21 Club quickly evaluated the responses and determined them to be unacceptable, and accordingly,
22 the Club sent a letter on June 22, 2012, explaining in detail how many of the responses provided
23 were insufficient. (*Id.* at ¶ 5). The parties had a telephonic meeting to discuss Vulcan’s
24 insufficient responses to FI Set One, among other insufficient discovery responses, on July 23,
25 2012. (*Id.* at ¶ 6). Vulcan indicated it would provide further responses as to all disputed
26 discovery requests during that telephonic conference. (*Id.*).

27 The Club sent an email on July 24, 2012, that proposed Vulcan would provide further
28 responses to the disputed FI Set One Response, and all of the other disputed responses then

1 outstanding, on August 22, 2012. (*Id.* at ¶ 7). That email also stated that a motion to compel was
2 being set for October 2, 2012, with regard to FI Set One and several other sets of discovery to
3 which Vulcan had provided insufficient responses. (Franklin Decl. at ¶ 7). Vulcan agreed to
4 provide the demanded further responses by email on July 24, 2012, and agreed to the relevant
5 motion to compel hearing being set for October 2, 2012. (*Id.* at ¶ 8).

6 Vulcan’s counsel requested a one-week extension to the August 22, 2012, production
7 deadline on August 16, 2012, based on a “medical issue.” (*Id.* at ¶ 9). The Club granted the
8 request to move the production date to August 29, 2012, by email on August 17, 2012, stating the
9 request was “being granted on the express condition that good faith and non-evasive further
10 responses will be provided.” (*Id.*).

11 The supplemental (i.e., further) responses provided on August 29, 2012, were both evasive
12 and evidenced something well less than a good faith effort, resulting in the Club sending a letter
13 on September 7, 2012 directed at resolving the multiple insufficient responses that still remained.
14 (*Id.* at ¶ 10). Though that letter and the prior discussion between counsel for the parties shows that
15 a reasonable and good faith attempt at an informal resolution has been attempted, the letter of
16 September 7 included a request that the parties hold a telephonic meeting as soon as possible to
17 make one last attempt at resolving this matter prior to the hearing set for October 2, 2012. (*Id.*).

18 III. ARGUMENT

19 A. Relevant Law

20 “On receipt of a response to interrogatories, the propounding party may move for an order
21 compelling a further response if the propounding party deems that [the] answer to a particular
22 interrogatory is evasive or incomplete.” Civ. Proc. Code § 2030.300(a)(1). Evasive and
23 incomplete interrogatory responses violate the responding party’s duty to provide responses that
24 are “as complete and straightforward as the information reasonably available to the responding
25 party permits.” *Id.* § 2030.220(a); accord *Guzman v. Gen. Motors Corp.*, 154 Cal. App. 3d 438,
26 442 (1984) (noting a responding party must “state the truth, the whole truth, and nothing but the
27 truth in answering written interrogatories”); *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978)
28 (holding it is improper to provide “deftly worded conclusionary answers to evade a series of

1 explicit questions”). A motion seeking further interrogatory responses must be served within 45
2 days after service of the response at issue. *Id.* § 2030.300(c). Inasmuch as this Motion is being
3 served twelve days after service of the disputed responses, it is timely.

4 **B. Vulcan’s Responses to Form Interrogatories Nos. 9.1, 9.2, and 17.1(b) (Relating to**
5 **Request for Admissions Nos. 18, 52, 53, 54, 60, 79, and 80) Are Impermissibly**
6 **Evasive or Clearly Incomplete**

7 In a case where the plaintiff seeks over \$6.72 million in damages, discovery
8 gamesmanship and evasive responses cannot be ignored. The insufficient responses evaluated
9 below and in the other discovery motions filed herewith must be supplemented if the Club is
10 going to have a fair chance to defend itself in this action.

11 **1. Form Interrogatory No. 9.1**

12 As is relevant hereto, this interrogatory asks Vulcan to state, “for each item of damage[,]”
13 “the amount[.]” In response to this inquiry Vulcan stated only one amount (“a minimum of
14 \$6,720,000”), even though Vulcan provided eight items of damage:

15 1) Damages associated with the costs incurred for investigating, assessing,
16 monitoring and remediating the Contamination; (2) loss of property value incurred
17 due to the existence of the Contamination including but not limited to, loss of
18 permanent value as caused by the stigma of environmental contamination; (3) loss
of future rent; (4) costs to repair and restore the Azusa Property and neighboring
properties to proper condition; (5) statutory costs; (6) punitive and exemplary
damages; (7) treble damages; and (8) attorney's fees and costs of suit.

19 The figure of \$6,720,000 is derived from a remediation estimate created during the federal
20 action that was created for the previously-leased property alone.¹ Thus, Vulcan failed to provide a
21 response to seven and one-half of the eight items it listed items of damage. Such a response is
22 clearly not “as complete and straightforward as the information reasonably available to the
23 responding party permits.” Civ. Proc. Code § 2030.220(a). Accordingly, the Court should order a
24 (second) further response to Form Interrogatory No. 9.1.

25 **2. Form Interrogatory No. 9.2**

26 This interrogatory seeks the “name, **ADDRESS**, and telephone number of the **PERSON**
27

28 ¹ This document, and all other documents from the federal action that are relevant to this
motion, will be provided in a formal request for judicial notice.

1 who has each **DOCUMENT**” that supports “the existence or amount of any item of damages
2 claimed in interrogatory 9.1[.]” Vulcan, however, responds by listing a series of leases, “which are
3 in the possession of Vulcan.” To list only leases when there are certainly damage-related
4 documents available (attorney’s billings, receipts re: costs of suit, etc.) is evasive and incomplete.
5 A further response is required to meet Vulcan’s duty under the Code of Civil Procedure. *See Civ.*
6 *Proc. Code* § 2030.220(a)-(b) (interrogatory responses must be “as complete and straightforward
7 as the information reasonably available to the responding party permits”).

8 **3. Form Interrogatory No. 17. 1(b) (as to Request for Admission No. 18)**

9 Here, in the predicate request for admission response, Vulcan stated a denial regarding the
10 following: “Admit that at VULCAN had no contractual right to enter the PROPERTY to dump
11 material on the PROPERTY between June 17, 1987 and May 19, 1992.” When faced with Form
12 Interrogatory No. 17.1’s requirement that the forgoing denial be explained, however, Vulcan stated
13 only that “[n]othing contractually prohibited Vulcan from entering ‘the PROPERTY to dump
14 material on the PROPERTY between June 17, 1987 and May 19, 1992.’”

15 Vulcan’s response is patently evasive *and* is legally incorrect. Indeed, a lease protects the
16 lessee from the presence of the lessor on the leased property, unless the lease expressly states
17 otherwise. *See Kaiser Co. Reid*, 30 Cal. 2d 610, 618 (1947). If Vulcan does not provide a further
18 response that actually supports its response to Request for Admission 18 or change the response to
19 that request to an admission, Vulcan will be knowingly violating the relevant discovery law. *Civ.*
20 *Pro. Code* §§ 2030.220; 2033.220.

21 **4. Form Interrogatory No. 17. 1(b) (as to Request for Admission Nos. 52-54)**

22 Vulcan repeatedly relied on the deposition testimony of Herb Bock (former president of
23 the Club) in denying the following similar requests for admission:

24 **Request for Admission No. 52:** Admit that, prior to May 20, 1992, VULCAN never
25 indicated to THE CLUB that the DRAFT LEASE PROVISION was intended to address
SPENT AMMUNITION.

26 **Request for Admission No. 53:** Admit that, prior to May 20, 1992, VULCAN
27 never indicated to THE CLUB that the DRAFT LEASE PROVISION was intended
to address lead bullets that had been fired at the PROPERTY.

28 **Request for Admission No. 54:** Admit that, prior to 2005, VULCAN never
indicated to THE CLUB that the DRAFT LEASE PROVISION was intended to

1 address SPENT AMMUNITION.

2 Bock's cited testimony, however, never mentions "lead bullets that had been fired at the
3 property," nor does it mention anything that fits within the defined term SPENT AMMUNITION
4 (as defined: "any constituent of a firearm cartridge *expelled from* a firearm during the normal
5 operation of a firearm, including, but not limited to, shot, bullets, bullet fragments, particulate
6 matter, empty bullet casings, and wadding") (emphasis added).² Thus, Vulcan is attempting to
7 manufacture a basis for a denial (likely because an admission is detrimental to Vulcan's case), but
8 Bock's testimony simply does not support the denials at hand. If Vulcan does not provide a
9 further response that actually supports its response to Requests for Admission Nos. 52-54 or
10 change the responses to those requests to admissions, Vulcan will be knowingly violating the
11 relevant discovery law. Civ Pro. Code §§ 2030.220; 2033.220.

12 **5. Form Interrogatory No. 17. 1(b) (as to Request for Admission No. 60)**

13 Once again, Vulcan asserts that deposition testimony supports a denial that it does not,
14 apparently because an admission on this point would be harmful to Vulcan's case. Specifically,
15 the Club asked Vulcan to "Admit that VULCAN did not seek permission from THE CLUB to
16 create the WASTE PILE." Instead of admitting that fact, Vulcan cites a section of deposition
17 testimony wherein two people had a *discussion* about the logistics of creating the waste pile.
18 Regardless, the cited testimony never alludes in any way to a request for permission, meaning
19 Vulcan is not being forthright in providing a response to this particular inquiry. If Vulcan does
20 not provide a further response that actually supports its response to Request for Admission 18 or
21 change the response to that request to an admission, Vulcan will be knowingly violating the
22 relevant discovery law. Civ Pro. Code §§ 2030.220; 2033.220.

23 **6. Form Interrogatory No. 17. 1(b) (as to Request for Admission No. 79)**

24 Here, the Club asked Vulcan to "[a]dmit that VULCAN never made any comment about
25

26 ² The cited portion of Bock's deposition (56:15-20) is as follows.

27 Q I understand. And do you recall any other discussions about this clause
being discussed by the board?

28 A No, just the fact that we didn't want Vulcan to tell us, you know, what type of
ammunition we could use on the range.

1 SPENT AMMUNITION at the PROPERTY to THE CLUB's former attorney, Robert Carter.”
2 Vulcan’s denial provided in response thereto is founded on the allegation that a particular
3 document produced during the federal litigation, i.e., the 1992 Draft Lease, “specifically included
4 a provision specifically referring to spent ammunition” Inasmuch as the 1992 Draft Lease
5 never mentions the material defined as SPENT AMMUNITION, Vulcan’s denial is unsupported.
6 If Vulcan does not provide a further response that actually supports its response to Request for
7 Admission 79 or change the response to that request to an admission, Vulcan will be knowingly
8 violating the relevant discovery law. Civ Pro. Code §§ 2030.220; 2033.220.

9 **6. Form Interrogatory No. 17. 1(b) (as to Request for Admission No. 80)**

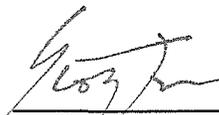
10 Similar to the request at issue in the preceding paragraph, here the Club asked Vulcan to
11 “[a]dmit that VULCAN never made any comment about lead bullets present at the PROPERTY to
12 THE CLUB's former attorney, Robert Carter.” Vulcan’s denial provided in response thereto is
13 founded on the allegation that a particular document produced during the federal litigation, i.e.,
14 the 1992 Draft Lease, “specifically included a provision specifically referring to spent ammunition
15” Inasmuch as the 1992 Draft Lease never mentions the *presence* of lead bullets at the
16 previously-leased property, Vulcan’s denial is unsupported. If Vulcan does not provide a further
17 response that actually supports its response to Request for Admission 80 or change the response to
18 that request to an admission, Vulcan will be knowingly violating the relevant discovery law. Civ
19 Pro. Code §§ 2030.220; 2033.220.

20 **IV. CONCLUSION**

21 For the foregoing reasons, the Club requests the Court order (second) further responses to
22 Form Interrogatories Nos. 9.1, 9.2, and 17.1(b) (Relating to Request for Admissions Nos. 18, 52,
23 53, 54, 60, 79, and 80).

24 Dated: September 10, 2012

MICHEL & ASSOCIATES, P.C.

25
26 

27 Scott M. Franklin, Attorney for San Gabriel
28 Valley Gun Club

EXHIBIT 1

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): C.D. Michel - S.B.N. 144258 Scott M. Franklin - S.B.N. 240254 Michel & Associates, P.C. 180 E. Ocean Blvd., Suite 200 Long Beach, CA 90802 TELEPHONE NO.: (562) 216-4444 FAX NO. (Optional): (562) 216-4445 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Defendant	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles Los Angeles Superior Court Pomona South Courthouse	
SHORT TITLE OF CASE: Calmat Co. dba Vulcan Materials Company v. San Gabriel Valley Gun Club	
FORM INTERROGATORIES—GENERAL Asking Party: San Gabriel Valley Gun Club Answering Party: Vulcan Materials Company Set No.: One	CASE NUMBER: KC062582

Sec. 1. Instructions to All Parties

- (a) Interrogatories are written questions prepared by a party to an action that are sent to any other party in the action to be answered under oath. The interrogatories below are form interrogatories approved for use in civil cases.
- (b) For time limitations, requirements for service on other parties, and other details, see Code of Civil Procedure sections 2030.010–2030.410 and the cases construing those sections.
- (c) These form interrogatories do not change existing law relating to interrogatories nor do they affect an answering party's right to assert any privilege or make any objection.

Sec. 2. Instructions to the Asking Party

- (a) These interrogatories are designed for optional use by parties in unlimited civil cases where the amount demanded exceeds \$25,000. Separate interrogatories, *Form Interrogatories—Limited Civil Cases (Economic Litigation)* (form DISC-004), which have no subparts, are designed for use in limited civil cases where the amount demanded is \$25,000 or less; however, those interrogatories may also be used in unlimited civil cases.
- (b) Check the box next to each interrogatory that you want the answering party to answer. Use care in choosing those interrogatories that are applicable to the case.
- (c) You may insert your own definition of **INCIDENT** in Section 4, but only where the action arises from a course of conduct or a series of events occurring over a period of time.
- (d) The interrogatories in section 16.0, *Defendant's Contentions—Personal Injury*, should not be used until the defendant has had a reasonable opportunity to conduct an investigation or discovery of plaintiff's injuries and damages.
- (e) Additional interrogatories may be attached.

Sec. 3. Instructions to the Answering Party

- (a) An answer or other appropriate response must be given to each interrogatory checked by the asking party.
- (b) As a general rule, within 30 days after you are served with these interrogatories, you must serve your responses on the asking party and serve copies of your responses on all other parties to the action who have appeared. See Code of Civil Procedure sections 2030.260–2030.270 for details.

(c) Each answer must be as complete and straightforward as the information reasonably available to you, including the information possessed by your attorneys or agents, permits. If an interrogatory cannot be answered completely, answer it to the extent possible.

(d) If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information by asking other persons or organizations, unless the information is equally available to the asking party.

(e) Whenever an interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the response. If the document has more than one page, refer to the page and section where the answer to the interrogatory can be found.

(f) Whenever an address and telephone number for the same person are requested in more than one interrogatory, you are required to furnish them in answering only the first interrogatory asking for that information.

(g) If you are asserting a privilege or making an objection to an interrogatory, you must specifically assert the privilege or state the objection in your written response.

(h) Your answers to these interrogatories must be verified, dated, and signed. You may wish to use the following form at the end of your answers:

I declare under penalty of perjury under the laws of the State of California that the foregoing answers are true and correct.

(DATE)

(SIGNATURE)

Sec. 4. Definitions

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(a) (Check one of the following):

- (1) **INCIDENT** includes the circumstances and events surrounding the alleged accident, injury, or other occurrence or breach of contract giving rise to this action or proceeding.

(2) INCIDENT means (insert your definition here or on a separate, attached sheet labeled "Sec. 4(a)(2)"): _____

(b) YOU OR ANYONE ACTING ON YOUR BEHALF includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf.

(c) PERSON includes a natural person, firm, association, organization, partnership, business, trust, limited liability company, corporation, or public entity.

(d) DOCUMENT means a writing, as defined in Evidence Code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostats, photographs, electronically stored information, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combinations of them.

(e) HEALTH CARE PROVIDER includes any PERSON referred to in Code of Civil Procedure section 667.7(e)(3).

(f) ADDRESS means the street address, including the city, state, and zip code.

Sec. 5. Interrogatories

The following interrogatories have been approved by the Judicial Council under Code of Civil Procedure section 2033.710:

CONTENTS

- 1.0 Identity of Persons Answering These Interrogatories
- 2.0 General Background Information—Individual
- 3.0 General Background Information—Business Entity
- 4.0 Insurance
- 5.0 [Reserved]
- 6.0 Physical, Mental, or Emotional Injuries
- 7.0 Property Damage
- 8.0 Loss of Income or Earning Capacity
- 9.0 Other Damages
- 10.0 Medical History
- 11.0 Other Claims and Previous Claims
- 12.0 Investigation — General
- 13.0 Investigation — Surveillance
- 14.0 Statutory or Regulatory Violations
- 15.0 Denials and Special or Affirmative Defenses
- 16.0 Defendant's Contentions Personal Injury
- 17.0 Responses to Request for Admissions
- 18.0 [Reserved]
- 19.0 [Reserved]
- 20.0 How the Incident Occurred—Motor Vehicle
- 25.0 [Reserved]
- 30.0 [Reserved]
- 40.0 [Reserved]
- 50.0 Contract
- 60.0 [Reserved]
- 70.0 Unlawful Detainer [See separate form DISC-003]
- 101.0 Economic Litigation [See separate form DISC-004]
- 200.0 Employment Law [See separate form DISC-002]
- Family Law [See separate form FL-145]

1.0 Identity of Persons Answering These Interrogatories

1.1 State the name, ADDRESS, telephone number, and relationship to you of each PERSON who prepared or assisted in the preparation of the responses to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

2.0 General Background Information—individual

2.1 State:
 (a) your name;
 (b) every name you have used in the past; and
 (c) the dates you used each name.

2.2 State the date and place of your birth.

2.3 At the time of the INCIDENT, did you have a driver's license? If so, state:
 (a) the state or other issuing entity;
 (b) the license number and type;
 (c) the date of issuance; and
 (d) all restrictions.

2.4 At the time of the INCIDENT, did you have any other permit or license for the operation of a motor vehicle? If so, state:
 (a) the state or other issuing entity;
 (b) the license number and type;
 (c) the date of issuance; and
 (d) all restrictions.

2.5 State:
 (a) your present residence ADDRESS;
 (b) your residence ADDRESSES for the past five years; and
 (c) the dates you lived at each ADDRESS.

2.6 State:
 (a) the name, ADDRESS, and telephone number of your present employer or place of self-employment; and
 (b) the name, ADDRESS, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the INCIDENT until today.

2.7 State:
 (a) the name and ADDRESS of each school or other academic or vocational institution you have attended, beginning with high school;
 (b) the dates you attended;
 (c) the highest grade level you have completed; and
 (d) the degrees received.

2.8 Have you ever been convicted of a felony? If so, for each conviction state:
 (a) the city and state where you were convicted;
 (b) the date of conviction;
 (c) the offense; and
 (d) the court and case number.

2.9 Can you speak English with ease? If not, what language and dialect do you normally use?

2.10 Can you read and write English with ease? If not, what language and dialect do you normally use?

- 2.11 At the time of the INCIDENT were you acting as an agent or employee for any PERSON? If so, state:
- the name, ADDRESS, and telephone number of that PERSON; and
 - a description of your duties.

- 2.12 At the time of the INCIDENT did you or any other person have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the INCIDENT? If so, for each person state:
- the name, ADDRESS, and telephone number;
 - the nature of the disability or condition; and
 - the manner in which the disability or condition contributed to the occurrence of the INCIDENT.

- 2.13 Within 24 hours before the INCIDENT did you or any person involved in the INCIDENT use or take any of the following substances: alcoholic beverage, marijuana, or other drug or medication of any kind (prescription or not)? If so, for each person state:
- the name, ADDRESS, and telephone number;
 - the nature or description of each substance;
 - the quantity of each substance used or taken;
 - the date and time of day when each substance was used or taken;
 - the ADDRESS where each substance was used or taken;
 - the name, ADDRESS, and telephone number of each person who was present when each substance was used or taken; and
 - the name, ADDRESS, and telephone number of any HEALTH CARE PROVIDER who prescribed or furnished the substance and the condition for which it was prescribed or furnished.

3.0 General Background Information — Business Entity

- 3.1 Are you a corporation? If so, state:
- the name stated in the current articles of incorporation;
 - all other names used by the corporation during the past 10 years and the dates each was used;
 - the date and place of incorporation;
 - the ADDRESS of the principal place of business; and
 - whether you are qualified to do business in California.
- 3.2 Are you a partnership? If so, state:
- the current partnership name;
 - all other names used by the partnership during the past 10 years and the dates each was used;
 - whether you are a limited partnership and, if so, under the laws of what jurisdiction;
 - the name and ADDRESS of each general partner; and
 - the ADDRESS of the principal place of business.
- 3.3 Are you a limited liability company? If so, state:
- the name stated in the current articles of organization;
 - all other names used by the company during the past 10 years and the date each was used;
 - the date and place of filing of the articles of organization;
 - the ADDRESS of the principal place of business; and
 - whether you are qualified to do business in California.

- 3.4 Are you a joint venture? If so, state:
- the current joint venture name;
 - all other names used by the joint venture during the past 10 years and the dates each was used;
 - the name and ADDRESS of each joint venturer; and
 - the ADDRESS of the principal place of business.

- 3.5 Are you an unincorporated association? If so, state:
- the current unincorporated association name;
 - all other names used by the unincorporated association during the past 10 years and the dates each was used; and
 - the ADDRESS of the principal place of business.

- 3.6 Have you done business under a fictitious name during the past 10 years? If so, for each fictitious name state:
- the name;
 - the dates each was used;
 - the state and county of each fictitious name filing; and
 - the ADDRESS of the principal place of business.

- 3.7 Within the past five years has any public entity registered or licensed your business? If so, for each license or registration:
- identify the license or registration;
 - state the name of the public entity; and
 - state the dates of issuance and expiration.

4.0 Insurance

- 4.1 At the time of the INCIDENT, was there in effect any policy of insurance through which you were or might be insured in any manner (for example, primary, pro-rata, or excess liability coverage or medical expense coverage) for the damages, claims, or actions that have arisen out of the INCIDENT? If so, for each policy state:
- the kind of coverage;
 - the name and ADDRESS of the insurance company;
 - the name, ADDRESS, and telephone number of each named insured;
 - the policy number;
 - the limits of coverage for each type of coverage contained in the policy;
 - whether any reservation of rights or controversy or coverage dispute exists between you and the insurance company; and
 - the name, ADDRESS, and telephone number of the custodian of the policy.

- 4.2 Are you self-insured under any statute for the damages, claims, or actions that have arisen out of the INCIDENT? If so, specify the statute.

5.0 [Reserved]

6.0 Physical, Mental, or Emotional Injuries

- 6.1 Do you attribute any physical, mental, or emotional injuries to the INCIDENT? (If your answer is "no," do not answer interrogatories 6.2 through 6.7).
- 6.2 Identify each injury you attribute to the INCIDENT and the area of your body affected.

6.3 Do you still have any complaints that you attribute to the **INCIDENT**? If so, for each complaint state:

- (a) a description;
- (b) whether the complaint is subsiding, remaining the same, or becoming worse; and
- (c) the frequency and duration.

6.4 Did you receive any consultation or examination (except from expert witnesses covered by Code of Civil Procedure sections 2034.210–2034.310) or treatment from a **HEALTH CARE PROVIDER** for any injury you attribute to the **INCIDENT**? If so, for each **HEALTH CARE PROVIDER** state:

- (a) the name, **ADDRESS**, and telephone number;
- (b) the type of consultation, examination, or treatment provided;
- (c) the dates you received consultation, examination, or treatment; and
- (d) the charges to date.

6.5 Have you taken any medication, prescribed or not, as a result of injuries that you attribute to the **INCIDENT**? If so, for each medication state:

- (a) the name;
- (b) the **PERSON** who prescribed or furnished it;
- (c) the date it was prescribed or furnished;
- (d) the dates you began and stopped taking it; and
- (e) the cost to date.

6.6 Are there any other medical services necessitated by the injuries that you attribute to the **INCIDENT** that were not previously listed (for example, ambulance, nursing, prosthetics)? If so, for each service state:

- (a) the nature;
- (b) the date;
- (c) the cost; and
- (d) the name, **ADDRESS**, and telephone number of each provider.

6.7 Has any **HEALTH CARE PROVIDER** advised that you may require future or additional treatment for any injuries that you attribute to the **INCIDENT**? If so, for each injury state:

- (a) the name and **ADDRESS** of each **HEALTH CARE PROVIDER**;
- (b) the complaints for which the treatment was advised; and
- (c) the nature, duration, and estimated cost of the treatment.

7.0 Property Damage

7.1 Do you attribute any loss of or damage to a vehicle or other property to the **INCIDENT**? If so, for each item of property:

- (a) describe the property;
- (b) describe the nature and location of the damage to the property;

- (c) state the amount of damage you are claiming for each item of property and how the amount was calculated; and
- (d) if the property was sold, state the name, **ADDRESS**, and telephone number of the seller, the date of sale, and the sale price.

7.2 Has a written estimate or evaluation been made for any item of property referred to in your answer to the preceding interrogatory? If so, for each estimate or evaluation state:

- (a) the name, **ADDRESS**, and telephone number of the **PERSON** who prepared it and the date prepared;
- (b) the name, **ADDRESS**, and telephone number of each **PERSON** who has a copy of it; and
- (c) the amount of damage stated.

7.3 Has any item of property referred to in your answer to interrogatory 7.1 been repaired? If so, for each item state:

- (a) the date repaired;
- (b) a description of the repair;
- (c) the repair cost;
- (d) the name, **ADDRESS**, and telephone number of the **PERSON** who repaired it;
- (e) the name, **ADDRESS**, and telephone number of the **PERSON** who paid for the repair.

8.0 Loss of Income or Earning Capacity

8.1 Do you attribute any loss of income or earning capacity to the **INCIDENT**? (If your answer is "no," do not answer interrogatories 8.2 through 8.8).

8.2 State:

- (a) the nature of your work;
- (b) your job title at the time of the **INCIDENT**; and
- (c) the date your employment began.

8.3 State the last date before the **INCIDENT** that you worked for compensation.

8.4 State your monthly income at the time of the **INCIDENT** and how the amount was calculated.

8.5 State the date you returned to work at each place of employment following the **INCIDENT**.

8.6 State the dates you did not work and for which you lost income as a result of the **INCIDENT**.

8.7 State the total income you have lost to date as a result of the **INCIDENT** and how the amount was calculated.

8.8 Will you lose income in the future as a result of the **INCIDENT**? If so, state:

- (a) the facts upon which you base this contention;
- (b) an estimate of the amount;
- (c) an estimate of how long you will be unable to work; and
- (d) how the claim for future income is calculated.

9.0 Other Damages

- 9.1 Are there any other damages that you attribute to the **INCIDENT**? If so, for each item of damage state:
- (a) the nature;
 - (b) the date it occurred;
 - (c) the amount; and
 - (d) the name, **ADDRESS**, and telephone number of each **PERSON** to whom an obligation was incurred.

- 9.2 Do any **DOCUMENTS** support the existence or amount of any item of damages claimed in interrogatory 9.1? If so, describe each document and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT**.

10.0 Medical History

- 10.1 At any time before the **INCIDENT** did you have complaints or injuries that involved the same part of your body claimed to have been injured in the **INCIDENT**? If so, for each state:
- (a) a description of the complaint or injury;
 - (b) the dates it began and ended; and
 - (c) the name, **ADDRESS**, and telephone number of each **HEALTH CARE PROVIDER** whom you consulted or who examined or treated you.

- 10.2 List all physical, mental, and emotional disabilities you had immediately before the **INCIDENT**. (*You may omit mental or emotional disabilities unless you attribute any mental or emotional injury to the **INCIDENT**.*)

- 10.3 At any time after the **INCIDENT**, did you sustain injuries of the kind for which you are now claiming damages? If so, for each incident giving rise to an injury state:
- (a) the date and the place it occurred;
 - (b) the name, **ADDRESS**, and telephone number of any other **PERSON** involved;
 - (c) the nature of any injuries you sustained;
 - (d) the name, **ADDRESS**, and telephone number of each **HEALTH CARE PROVIDER** who you consulted or who examined or treated you; and
 - (e) the nature of the treatment and its duration.

11.0 Other Claims and Previous Claims

- 11.1 Except for this action, in the past 10 years have you filed an action or made a written claim or demand for compensation for your personal injuries? If so, for each action, claim, or demand state:
- (a) the date, time, and place and location (closest street **ADDRESS** or intersection) of the **INCIDENT** giving rise to the action, claim, or demand;
 - (b) the name, **ADDRESS**, and telephone number of each **PERSON** against whom the claim or demand was made or the action filed;

- (c) the court, names of the parties, and case number of any action filed;
- (d) the name, **ADDRESS**, and telephone number of any attorney representing you;
- (e) whether the claim or action has been resolved or is pending; and
- (f) a description of the injury.

- 11.2 In the past 10 years have you made a written claim or demand for workers' compensation benefits? If so, for each claim or demand state:
- (a) the date, time, and place of the **INCIDENT** giving rise to the claim;
 - (b) the name, **ADDRESS**, and telephone number of your employer at the time of the injury;
 - (c) the name, **ADDRESS**, and telephone number of the workers' compensation insurer and the claim number;
 - (d) the period of time during which you received workers' compensation benefits;
 - (e) a description of the injury;
 - (f) the name, **ADDRESS**, and telephone number of any **HEALTH CARE PROVIDER** who provided services; and
 - (g) the case number at the Workers' Compensation Appeals Board.

12.0 Investigation—General

- 12.1 State the name, **ADDRESS**, and telephone number of each individual:
- (a) who witnessed the **INCIDENT** or the events occurring immediately before or after the **INCIDENT**;
 - (b) who made any statement at the scene of the **INCIDENT**;
 - (c) who heard any statements made about the **INCIDENT** by any individual at the scene; and
 - (d) who **YOU OR ANYONE ACTING ON YOUR BEHALF** claim has knowledge of the **INCIDENT** (except for expert witnesses covered by Code of Civil Procedure section 2034).

- 12.2 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** interviewed any individual concerning the **INCIDENT**? If so, for each individual state:
- (a) the name, **ADDRESS**, and telephone number of the individual interviewed;
 - (b) the date of the interview; and
 - (c) the name, **ADDRESS**, and telephone number of the **PERSON** who conducted the interview.

- 12.3 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** obtained a written or recorded statement from any individual concerning the **INCIDENT**? If so, for each statement state:
- (a) the name, **ADDRESS**, and telephone number of the individual from whom the statement was obtained;
 - (b) the name, **ADDRESS**, and telephone number of the individual who obtained the statement;
 - (c) the date the statement was obtained; and
 - (d) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original statement or a copy.

- 12.4 Do YOU OR ANYONE ACTING ON YOUR BEHALF know of any photographs, films, or videotapes depicting any place, object, or individual concerning the INCIDENT or plaintiff's injuries? If so, state:
- (a) the number of photographs or feet of film or videotape;
 - (b) the places, objects, or persons photographed, filmed, or videotaped;
 - (c) the date the photographs, films, or videotapes were taken;
 - (d) the name, ADDRESS, and telephone number of the individual taking the photographs, films, or videotapes; and
 - (e) the name, ADDRESS, and telephone number of each PERSON who has the original or a copy of the photographs, films, or videotapes.

- 12.5 Do YOU OR ANYONE ACTING ON YOUR BEHALF know of any diagram, reproduction, or model of any place or thing (except for items developed by expert witnesses covered by Code of Civil Procedure sections 2034.210-2034.310) concerning the INCIDENT? If so, for each item state:
- (a) the type (i.e., diagram, reproduction, or model);
 - (b) the subject matter; and
 - (c) the name, ADDRESS, and telephone number of each PERSON who has it.

- 12.6 Was a report made by any PERSON concerning the INCIDENT? If so, state:
- (a) the name, title, identification number, and employer of the PERSON who made the report;
 - (b) the date and type of report made;
 - (c) the name, ADDRESS, and telephone number of the PERSON for whom the report was made; and
 - (d) the name, ADDRESS, and telephone number of each PERSON who has the original or a copy of the report.

- 12.7 Have YOU OR ANYONE ACTING ON YOUR BEHALF inspected the scene of the INCIDENT? If so, for each inspection state:
- (a) the name, ADDRESS, and telephone number of the individual making the inspection (except for expert witnesses covered by Code of Civil Procedure sections 2034.210-2034.310); and
 - (b) the date of the inspection.

13.0 Investigation—Surveillance

- 13.1 Have YOU OR ANYONE ACTING ON YOUR BEHALF conducted surveillance of any individual involved in the INCIDENT or any party to this action? If so, for each surveillance state:
- (a) the name, ADDRESS, and telephone number of the individual or party;
 - (b) the time, date, and place of the surveillance;
 - (c) the name, ADDRESS, and telephone number of the individual who conducted the surveillance; and
 - (d) the name, ADDRESS, and telephone number of each PERSON who has the original or a copy of any surveillance photograph, film, or videotape.

- 13.2 Has a written report been prepared on the surveillance? If so, for each written report state:
- (a) the title;
 - (b) the date;
 - (c) the name, ADDRESS, and telephone number of the individual who prepared the report; and
 - (d) the name, ADDRESS, and telephone number of each PERSON who has the original or a copy.

14.0 Statutory or Regulatory Violations

- 14.1 Do YOU OR ANYONE ACTING ON YOUR BEHALF contend that any PERSON involved in the INCIDENT violated any statute, ordinance, or regulation and that the violation was a legal (proximate) cause of the INCIDENT? If so, identify the name, ADDRESS, and telephone number of each PERSON and the statute, ordinance, or regulation that was violated.

- 14.2 Was any PERSON cited or charged with a violation of any statute, ordinance, or regulation as a result of this INCIDENT? If so, for each PERSON state:
- (a) the name, ADDRESS, and telephone number of the PERSON;
 - (b) the statute, ordinance, or regulation allegedly violated;
 - (c) whether the PERSON entered a plea in response to the citation or charge and, if so, the plea entered; and
 - (d) the name and ADDRESS of the court or administrative agency, names of the parties, and case number.

15.0 Denials and Special or Affirmative Defenses

- 15.1 Identify each denial of a material allegation and each special or affirmative defense in your pleadings and for each:
- (a) state all facts upon which you base the denial or special or affirmative defense;
 - (b) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of those facts; and
 - (c) identify all DOCUMENTS and other tangible things that support your denial or special or affirmative defense, and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.

16.0 Defendant's Contentions—Personal Injury

- 16.1 Do you contend that any PERSON, other than you or plaintiff, contributed to the occurrence of the INCIDENT or the injuries or damages claimed by plaintiff? If so, for each PERSON:
- (a) state the name, ADDRESS, and telephone number of the PERSON;
 - (b) state all facts upon which you base your contention;
 - (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
 - (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.2 Do you contend that plaintiff was not injured in the INCIDENT? If so:
- (a) state all facts upon which you base your contention;
 - (b) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
 - (c) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

16.3 Do you contend that the injuries or the extent of the injuries claimed by plaintiff as disclosed in discovery proceedings thus far in this case were not caused by the INCIDENT? If so, for each injury:

- (a) identify it;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

16.4 Do you contend that any of the services furnished by any HEALTH CARE PROVIDER claimed by plaintiff in discovery proceedings thus far in this case were not due to the INCIDENT? If so:

- (a) identify each service;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

16.5 Do you contend that any of the costs of services furnished by any HEALTH CARE PROVIDER claimed as damages by plaintiff in discovery proceedings thus far in this case were not necessary or unreasonable? If so:

- (a) identify each cost;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

16.6 Do you contend that any part of the loss of earnings or income claimed by plaintiff in discovery proceedings thus far in this case was unreasonable or was not caused by the INCIDENT? If so:

- (a) identify each part of the loss;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

16.7 Do you contend that any of the property damage claimed by plaintiff in discovery Proceedings thus far in this case was not caused by the INCIDENT? If so:

- (a) identify each item of property damage;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

16.8 Do you contend that any of the costs of repairing the property damage claimed by plaintiff in discovery proceedings thus far in this case were unreasonable? If so:

- (a) identify each cost item;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

16.9 Do YOU OR ANYONE ACTING ON YOUR BEHALF have any DOCUMENT (for example, insurance bureau index reports) concerning claims for personal injuries made before or after the INCIDENT by a plaintiff in this case? If so, for each plaintiff state:

- (a) the source of each DOCUMENT;
- (b) the date each claim arose;
- (c) the nature of each claim; and
- (d) the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.

16.10 Do YOU OR ANYONE ACTING ON YOUR BEHALF have any DOCUMENT concerning the past or present physical, mental, or emotional condition of any plaintiff in this case from a HEALTH CARE PROVIDER not previously identified (except for expert witnesses covered by Code of Civil Procedure sections 2034.210–2034.310)? If so, for each plaintiff state:

- (a) the name, ADDRESS, and telephone number of each HEALTH CARE PROVIDER;
- (b) a description of each DOCUMENT; and
- (c) the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.

17.0 Responses to Request for Admissions

17.1 Is your response to each request for admission served with these interrogatories an unqualified admission? If not, for each response that is not an unqualified admission:

- (a) state the number of the request;
- (b) state all facts upon which you base your response;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of those facts; and
- (d) identify all DOCUMENTS and other tangible things that support your response and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

18.0 [Reserved]

19.0 [Reserved]

20.0 How the Incident Occurred—Motor Vehicle

20.1 State the date, time, and place of the INCIDENT (closest street ADDRESS or intersection).

20.2 For each vehicle involved in the INCIDENT, state:

- (a) the year, make, model, and license number;
- (b) the name, ADDRESS, and telephone number of the driver;

- (c) the name, ADDRESS, and telephone number of each occupant other than the driver;
- (d) the name, ADDRESS, and telephone number of each registered owner;
- (e) the name, ADDRESS, and telephone number of each lessee;
- (f) the name, ADDRESS, and telephone number of each owner other than the registered owner or lien holder; and
- (g) the name of each owner who gave permission or consent to the driver to operate the vehicle.

20.3 State the ADDRESS and location where your trip began and the ADDRESS and location of your destination.

20.4 Describe the route that you followed from the beginning of your trip to the location of the INCIDENT, and state the location of each stop, other than routine traffic stops, during the trip leading up to the INCIDENT.

20.5 State the name of the street or roadway, the lane of travel, and the direction of travel of each vehicle involved in the INCIDENT for the 500 feet of travel before the INCIDENT.

20.6 Did the INCIDENT occur at an intersection? If so, describe all traffic control devices, signals, or signs at the intersection.

20.7 Was there a traffic signal facing you at the time of the INCIDENT? If so, state:

- (a) your location when you first saw it;
- (b) the color;
- (c) the number of seconds it had been that color; and
- (d) whether the color changed between the time you first saw it and the INCIDENT.

20.8 State how the INCIDENT occurred, giving the speed, direction, and location of each vehicle involved:

- (a) just before the INCIDENT;
- (b) at the time of the INCIDENT; and
- (c) just after the INCIDENT.

20.9 Do you have information that a malfunction or defect in a vehicle caused the INCIDENT? If so:

- (a) identify the vehicle;
- (b) identify each malfunction or defect;
- (c) state the name, ADDRESS, and telephone number of each PERSON who is a witness to or has information about each malfunction or defect; and
- (d) state the name, ADDRESS, and telephone number of each PERSON who has custody of each defective part.

20.10 Do you have information that any malfunction or defect in a vehicle contributed to the injuries sustained in the INCIDENT? If so:

- (a) identify the vehicle;
- (b) identify each malfunction or defect;
- (c) state the name, ADDRESS, and telephone number of each PERSON who is a witness to or has information about each malfunction or defect; and

(d) state the name, ADDRESS, and telephone number of each PERSON who has custody of each defective part.

20.11 State the name, ADDRESS, and telephone number of each owner and each PERSON who has had possession since the INCIDENT of each vehicle involved in the INCIDENT.

25.0 [Reserved]

30.0 [Reserved]

40.0 [Reserved]

50.0 Contract

50.1 For each agreement alleged in the pleadings:

(a) identify each DOCUMENT that is part of the agreement and for each state the name, ADDRESS, and telephone number of each PERSON who has the DOCUMENT;

(b) state each part of the agreement not in writing, the name, ADDRESS, and telephone number of each PERSON agreeing to that provision, and the date that part of the agreement was made;

(c) identify all DOCUMENTS that evidence any part of the agreement not in writing and for each state the name, ADDRESS, and telephone number of each PERSON who has the DOCUMENT;

(d) identify all DOCUMENTS that are part of any modification to the agreement, and for each state the name, ADDRESS, and telephone number of each PERSON who has the DOCUMENT;

(e) state each modification not in writing, the date, and the name, ADDRESS, and telephone number of each PERSON agreeing to the modification, and the date the modification was made;

(f) identify all DOCUMENTS that evidence any modification of the agreement not in writing and for each state the name, ADDRESS, and telephone number of each PERSON who has the DOCUMENT.

50.2 Was there a breach of any agreement alleged in the pleadings? If so, for each breach describe and give the date of every act or omission that you claim is the breach of the agreement.

50.3 Was performance of any agreement alleged in the pleadings excused? If so, identify each agreement excused and state why performance was excused.

50.4 Was any agreement alleged in the pleadings terminated by mutual agreement, release, accord and satisfaction, or novation? If so, identify each agreement terminated, the date of termination, and the basis of the termination.

50.5 Is any agreement alleged in the pleadings unenforceable? If so, identify each unenforceable agreement and state why it is unenforceable.

50.6 Is any agreement alleged in the pleadings ambiguous? If so, identify each ambiguous agreement and state why it is ambiguous.

60.0 [Reserved]

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA
3 COUNTY OF LOS ANGELES

4 I, Christina Sanchez, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
6 business address is 180 E. Ocean Boulevard, Suite 200, Long Beach, California 90802.

7 On April 18, 2012, I served the foregoing document(s) described as

8 **FORM INTERROGATORIES, SET ONE, PROPOUNDED ON PLAINTIFF CALMAT**
9 **CO. DBA VULCAN MATERIALS COMPANY, WESTERN DIVISION**

10 on the interested parties in this action by placing
11 [] the original
12 [X] a true and correct copy
13 thereof enclosed in sealed envelope(s) addressed as follows:

14 Kenneth A. Ehrlich
15 Paul A. Kroeger
16 Jeffer, Mangels, Butler & Mitchell, LLP
17 1900 Avenue of the Stars, Seventh Floor
18 Los Angeles, CA 90067-4308

19 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
20 processing correspondence for mailing. Under the practice it would be deposited with the
21 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
22 California, in the ordinary course of business. I am aware that on motion of the party
23 served, service is presumed invalid if postal cancellation date is more than one day after
24 date of deposit for mailing an affidavit.
25 Executed on April 18, 2012, at Long Beach, California.

26 (VIA OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of
27 collection and processing correspondence for overnight delivery by UPS/FED-EX. Under
28 the practice it would be deposited with a facility regularly maintained by UPS/FED-EX for
receipt on the same day in the ordinary course of business. Such envelope was sealed and
placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for
in accordance with ordinary business practices.
Executed on April 18, 2012, at Long Beach, California.

 (PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of
the addressee.
Executed on April 18, 2012, at Long Beach, California.

X (STATE) I declare under penalty of perjury under the laws of the State of California that
the foregoing is true and correct.

 (FEDERAL) I declare that I am employed in the office of the member of the bar of this
court at whose direction the service was made.


CHRISTINA SANCHEZ

EXHIBIT 2

1 JEFFER MANGELS BUTLER & MITCHELL LLP
KENNETH A. EHRLICH (Bar No. 150570)
2 KEhrlich@jmbm.com
ELIZABETH A. CULLEY (Bar No. 258250)
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4 Los Angeles, California 90067-4308
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6 Attorneys for Plaintiff CALMAT CO. dba VULCAN
MATERIALS COMPANY, WESTERN DIVISION
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
10

11 CALMAT CO. dba VULCAN MATERIALS
12 COMPANY, WESTERN DIVISION, a
Delaware Corporation,
13 Plaintiff,
14
15 v.
16 SAN GABRIEL VALLEY GUN CLUB, a non-
profit California Corporation; and DOES 1-
17 1000, inclusive,
Defendants.
18
19
20
21
22

CASE NO. KC062582J
**RESPONSES TO REQUESTS FOR FORM
INTERROGATORIES, SET ONE,
PROPOUNDED ON PLAINTIFF VULCAN
MATERIALS COMPANY**

23
24 PROPOUNDING PARTY: DEFENDANT SAN GABRIEL VALLEY GUN CLUB
25 RESPONDING PARTY: PLAINTIFF VULCAN MATERIALS COMPANY
26 SET NO.: ONE
27
28

1 Pursuant to Code of Civil Procedure Section 2030.010 *et seq.*, Plaintiff Vulcan
2 Materials Company, Western Division ("Vulcan") hereby responds and objects to Defendant San
3 Gabriel Valley Gun Club's ("Gun Club") First Set of Form Interrogatories.

4 **PRELIMINARY STATEMENT**

5 A. These responses are made solely for the purpose of, and in relation to, this
6 action. Each answer is given subject to all appropriate objections (including but not limited to
7 objections concerning competency, relevancy, materiality, propriety and admissibility) which would
8 require the exclusion of any statement contained herein if made by a witness present and testifying
9 in court. All such objections and ground therefore are reserved and may be interposed at the time of
10 trial.

11 B. Vulcan is pursuing its investigation and analysis of the facts and law relating
12 to this case and has not completed discovery or its preparation for trial. Therefore, the responses set
13 forth herein are given without prejudice to Vulcan's right to produce evidence of any subsequent
14 facts or interpretations thereof, or to add to, modify or otherwise change or amend the responses
15 herein. The information hereinafter set forth is true and correct to Vulcan's best knowledge as of
16 this date, and is subject to correction for inadvertent errors, mistakes or omissions if any such errors,
17 mistakes or omissions should be found to exist. These responses are based upon records and
18 information presently available to Vulcan. References in a response to a preceding or subsequent
19 response incorporate both the information and objections set forth in the referenced response.

20 C. Vulcan reserves the right to introduce at trial any and all evidence heretofore
21 or hereinafter produced by the parties in this action or by any third party that supports or tends to
22 support Vulcan's contentions at trial or in support of or in opposition to any motion in this case. To
23 the extent that Vulcan identifies evidence or documents in response to a request herein, she does so
24 without prejudice to establish at a later date any additional facts that may be discovered as a result
25 of any additional investigation and discovery.

26 D. Any response contained herein does not constitute a waiver of any applicable
27 privilege, nor does any response contained herein waive any objection, including relevancy, to the
28 admission of such responses or responsive documents in evidence.

1 E. Except for explicit facts admitted herein, no incidental or implied admissions
2 of any nature whatsoever are intended hereby, are implied, or should be inferred. The fact that a
3 request has been responded to herein should not be taken as an admission, or a concession of the
4 existence of any facts set forth or assumed by the request, or that such response constitutes evidence
5 of any fact. In addition, the fact that Vulcan has responded in part or all to any request is not
6 intended and shall not be construed to be a waiver by Vulcan of all or any part of any objection to
7 any request.

8 **GENERAL OBJECTIONS**

9 The following general objections ("General Objections") apply to each individual
10 interrogatory propounded by Plaintiff and are incorporated into each response thereto by Vulcan:

- 11 1. Vulcan objects generally to each form interrogatory to the extent that the request
12 seeks information that is neither relevant to the subject matter of this action nor reasonably
13 calculated to lead to the discovery of admissible evidence.
- 14 2. Vulcan objects generally to each form interrogatory insofar as the request may be
15 construed as calling for information and/or the identification of documents which is subject to the
16 rights of privacy and/or confidentiality of third parties. Vulcan will not reproduce such information
17 and/or documents.
- 18 3. Vulcan objects generally to each form interrogatory to the extent that it exceeds the
19 scope of permissible discovery under Code of Civil Procedure section 2017.010, including but not
20 limited to, information related to a subject matter that is not relevant or at issue in this action.
- 21 4. Vulcan objects and responds on the basis of her understanding and interpretation of
22 each request. If Plaintiff understands or interprets any one or part of a request differently, Vulcan
23 reserves the right to supplement any of these responses, either with additional objections or
24 otherwise.
- 25 5. Vulcan objects to each form interrogatory to the extent that it calls for information
26 that is subject to the attorney-client privilege, the attorney work-product doctrine or any other
27 privilege, immunity or protection available under law. Inadvertent disclosure of any information
28 subject to any applicable privilege or doctrine, including, but not limited to, the attorney-client

1 privilege and the work-product doctrine, is not intended to be, and shall not operate as, a waiver of
2 such privilege or doctrine, in whole or in part. Nor is any such inadvertent disclosure intended to
3 be, nor shall it constitute, a waiver of the right to object to any use of such information.

4 6. It should not be inferred from the form or substance of any objection or response that
5 Vulcan agrees with Plaintiff's characterization of the facts in any request.

6 7. Vulcan objects generally to each form interrogatory to the extent that it misconstrues
7 and/or misrepresents Vulcan's obligations pursuant to the Code of Civil Procedure or purports to
8 impose obligations different from or in addition to those provided under the Code of Civil
9 Procedure. Vulcan shall respond to the requests in accordance with its obligations under the Code
10 of Civil Procedure and not otherwise.

11 8. Vulcan objects generally to each form interrogatory insofar as each form
12 interrogatory is vague, ambiguous or overbroad as to time.

13 9. Vulcan objects generally to each individual form interrogatory relative to documents
14 on the grounds and to the extent it seeks information relative to documents protected by the
15 attorney-client privilege, the work-product doctrine or any other applicable privilege.

16 10. Subject to the foregoing Preliminary Statement and General Objections, which are
17 hereby incorporated by reference into each individual response below, and without waiving same,
18 Vulcan responds as follows to the individual form interrogatories.

19
20 **RESPONSES TO FORM INTERROGATORIES**

21 **INTERROGATORY NO. 1.1:**

22 State the name, **ADDRESS**, telephone number, and relationship to you of each
23 **PERSON** who prepared or assisted in the preparation of the responses to these interrogatories. (*Do*
24 *not identify anyone who simply typed or reproduced the responses.*)

25 **RESPONSE TO INTERROGATORY NO. 1.1:**

26 In addition to the General Objections set forth above, Vulcan objects to this
27 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
28 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further

1 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
2 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
3 foregoing objections and the Preliminary Statement and General Objections set forth above and
4 incorporated herein, and without waiving the same, Vulcan responds as follows:

5 Brian Ferris, Vice President, Assistant General Counsel, Vulcan Materials Company,
6 500 N. Brand Boulevard, Suite 500, Glendale, CA 91203, (818) 553-8813.

7 INTERROGATORY NO. 3.1:

8 Are you a corporation? If so, state:

- 9 (a) the name stated in the current articles of incorporation;
- 10 (b) all other names used by the corporation during the past 10 years and the dates
11 each was used;
- 12 (c) the date and place of incorporation;
- 13 (d) the **ADDRESS** of the principal place of business; and
- 14 (e) whether you are qualified to do business in California.

15 RESPONSE TO INTERROGATORY NO. 3.1:

16 In addition to the General Objections set forth above, Vulcan objects to this
17 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
18 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
19 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
20 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
21 foregoing objections and the Preliminary Statement and General Objections set forth above and
22 incorporated herein, and without waiving the same, Vulcan responds as follows:

23 Yes.

- 24 (a) Calmat Co.
- 25 (b) Vulcan Materials Company, Western Division; Vulcan Materials Company, West
26 Region
- 27 (c) January 28, 1929
- 28 (d) 500 N. Brand Boulevard, Suite 500, Glendale, CA 91203

1 (e) Yes

2 INTERROGATORY NO. 3.6:

3 Have you done business under a fictitious name during the past 10 years? If so, for
4 each fictitious name state:

- 5 (a) the name;
- 6 (b) the dates each was used;
- 7 (c) the state and county of each fictitious name filing; and
- 8 (d) the **ADDRESS** of the principal place of business.

9 RESPONSE TO INTERROGATORY NO. 3.6:

10 In addition to the General Objections set forth above, Vulcan objects to this
11 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
12 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
13 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
14 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
15 foregoing objections and the Preliminary Statement and General Objections set forth above and
16 incorporated herein, and without waiving the same, Vulcan responds as follows:

17 Yes.

18 (a) Vulcan Materials Company, Western Division; Vulcan Materials Company, West
19 Region

20 (b) October 4, 2000-present (Western Division); April 26, 2012-present (West
21 Region)

22 (c) Los Angeles

23 (d) 500 N. Brand Boulevard, Suite 500, Glendale, CA 91203

24 INTERROGATORY NO. 3.7:

25 Within the past five years has any public entity registered or licensed your
26 businesses? If so, for each license or registration:

- 27 (a) identify the license or registration;
- 28 (b) state the name of the public entity; and

1 (c) state the dates of issuance and expiration.

2 RESPONSE TO INTERROGATORY NO. 3.7:

3 In addition to the General Objections set forth above, Vulcan objects to this
4 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
5 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
6 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
7 privilege, the attorney work-product doctrine or any other applicable privilege. Vulcan further
8 objects to this Interrogatory on the grounds that it seeks information maintained by public entities
9 under registration systems and regulations for businesses and businesses licenses, which
10 information is equally available to the propounding party. Vulcan further objects on the grounds
11 that this interrogatory seeks the cataloging of every license and registration which is unduly
12 burdensome and oppressive and sought for the sole purpose of harassing Vulcan.

13 INTERROGATORY NO. 4.1:

14 At the time of the **INCIDENT**, was there in effect any policy of insurance through
15 which you were or might be insured in any manner (for example, primary, pro-rata, or excess
16 liability coverage or medical expense coverage) for the damages, claims, or actions that have arisen
17 out of the **INCIDENT**? If so, for each policy state:

- 18 (a) the kind of coverage;
- 19 (b) the name and **ADDRESS** of the insurance company;
- 20 (c) the name, **ADDRESS**, and telephone number of each named insured;
- 21 (d) the policy number;
- 22 (e) the limits of coverage for each type of coverage contained in the policy;
- 23 (f) whether any reservation of rights or controversy or coverage dispute exists
24 between you and the insurance company; and
- 25 (g) the name, **ADDRESS**, and telephone number of the custodian of the policy.

26 RESPONSE TO INTERROGATORY NO. 4.1:

27 In addition to the General Objections set forth above, Vulcan objects to this
28 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this

1 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
2 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
3 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
4 foregoing objections and the Preliminary Statement and General Objections set forth above and
5 incorporated herein, and without waiving the same, Vulcan responds as follows:

6 Yes. See Exhibit 1 attached hereto.

7
8 INTERROGATORY NO. 4.2:

9 Are you self-insured under any statute for the damages, claims, or actions that have
10 arisen out of the **INCIDENT**? If so, specify the statute.

11 RESPONSE TO INTERROGATORY NO. 4.2:

12 In addition to the General Objections set forth above, Vulcan objects to this
13 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
14 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
15 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
16 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
17 foregoing objections and the Preliminary Statement and General Objections set forth above and
18 incorporated herein, and without waiving the same, Vulcan responds as follows:

19 No.

20 INTERROGATORY NO. 7.1:

21 Do you attribute any loss of or damage to a vehicle or other property to the
22 **INCIDENT**? If so, for each item of property:

- 23 (a) describe the property;
24 (b) describe the nature and location of the damage to the property;
25 (c) state the amount of damage you are claiming for each item of property and

26 how the amount was calculated; and

27 (d) if the property was sold, state the name, **ADDRESS** and telephone number of
28 the seller, the date of sale, and the sale price.

1 RESPONSE TO INTERROGATORY NO. 7.1:

2 In addition to the General Objections set forth above, Vulcan objects to this
3 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
4 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
5 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
6 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
7 foregoing objections and the Preliminary Statement and General Objections set forth above and
8 incorporated herein, and without waiving the same, Vulcan responds as follows:

9 Yes.

10 (a) Real property located at 4001 Fish Canyon road, Azusa, California and
11 neighboring properties.

12 (b) Soil and groundwater contaminated with heavy metals and other hazardous
13 substances.

14 (c) At least \$6,720,000 including but not limited to: Costs incurred for investigating,
15 assessing, monitoring and remediating the contamination; loss of property value including loss of
16 permanent value as caused by the stigma of environmental contamination; loss of future rent; costs
17 to repair and restore the property and neighboring properties to proper condition.

18 (d) N/A

19 INTERROGATORY NO. 7.2:

20 Has a written estimate or evaluation been made for any item of property referred to
21 in your answer to the preceding interrogatory? If so, for each estimate or evaluation state:

22 (a) the name, **ADDRESS**, and telephone number of the **PERSON** who prepared
23 it and the date prepared;

24 (b) the name, **ADDRESS**, and telephone number of each **PERSON** who has a
25 copy of it; and

26 (c) the amount of damage stated.

27 RESPONSE TO INTERROGATORY NO. 7.2:

28 In addition to the General Objections set forth above, Vulcan objects to this

1 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
2 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
3 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
4 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
5 foregoing objections and the Preliminary Statement and General Objections set forth above and
6 incorporated herein, and without waiving the same, Vulcan responds as follows:

7 During the course of the federal litigation that preceded the instant state court
8 litigation, Vulcan caused to be prepared an expert report which presented a range of Vulcan's
9 claimed damages, depending on the extent of remediation required by governmental agencies.
10 Defendant was served a copy of this expert report.

11 INTERROGATORY NO. 7.3:

12 Has any item of property referred to in your answer to interrogatory 7.1 been
13 repaired? If so, for each item state:

- 14 (a) the date repaired;
- 15 (b) a description of the repair;
- 16 (c) the repair cost;
- 17 (d) the name, **ADDRESS**, and telephone number of the **PERSON** who repaired
18 it; and
- 19 (e) the name, **ADDRESS** and telephone number of the **PERSON** who paid for
20 the repair.

21 RESPONSE TO INTERROGATORY NO. 7.3:

22 In addition to the General Objections set forth above, Vulcan objects to this
23 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
24 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
25 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
26 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
27 foregoing objections and the Preliminary Statement and General Objections set forth above and
28 incorporated herein, and without waiving the same, Vulcan responds as follows:

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INTERROGATORY NO. 9.1:

Are there any other damages that you attribute to the **INCIDENT**? If so, for each item of damage state:

- (a) the nature;
- (b) the date it occurred;
- (c) the amount; and
- (d) the name, **ADDRESS**, and telephone number of each **PERSON** to whom an obligation was incurred.

RESPONSE TO INTERROGATORY NO. 9.1:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the foregoing objections and the Preliminary Statement and General Objections set forth above and incorporated herein, and without waiving the same, Vulcan responds as follows:

Not other than stated in the Complaint.

INTERROGATORY NO. 9.2:

Do any **DOCUMENTS** support the existence or amount of any item of damages claimed in interrogatory 9.1? If so, state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT**.

RESPONSE TO INTERROGATORY NO. 9.2:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the

1 foregoing objections and the Preliminary Statement and General Objections set forth above and
2 incorporated herein, and without waiving the same, Vulcan responds as follows:

3 Not Applicable.

4 INTERROGATORY NO. 12.1:

5 State the name, **ADDRESS**, and telephone number of each individual:

6 (a) who witnessed the **INCIDENT** or the events occurring immediately before
7 or after the **INCIDENT**;

8 (b) who made any statement at the scene of the **INCIDENT**;

9 (c) who heard any statements made about the **INCIDENT** by any individual at
10 the scene; and

11 (d) who **YOU OR ANYONE ACTING ON YOUR BEHALF** claim has
12 knowledge of the **INCIDENT** (except for expert witnesses covered by Code of Civil Procedure
13 section 2034).

14 RESPONSE TO INTERROGATORY NO. 12.1:

15 In addition to the General Objections set forth above, Vulcan objects to this
16 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
17 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
18 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
19 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
20 foregoing objections and the Preliminary Statement and General Objections set forth above and
21 incorporated herein, and without waiving the same, Vulcan responds as follows:

22 The percipient witnesses deposed in the federal litigation that preceded the instant
23 state court litigation viewed a portion of the Gun Club's contaminating activities.

24 INTERROGATORY NO. 12.2:

25 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** interviewed any
26 individual concerning the **INCIDENT**? If so, for each individual state:

27 (a) the name, **ADDRESS** and telephone number of the individual interviewed;

28 (b) the date of the interview; and

1 (c) the name, **ADDRESS**, and telephone number of the **PERSON** who
2 conducted the interview.

3 RESPONSE TO INTERROGATORY NO. 12.2:

4 In addition to the General Objections set forth above, Vulcan objects to this
5 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
6 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
7 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
8 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
9 foregoing objections and the Preliminary Statement and General Objections set forth above and
10 incorporated herein, and without waiving the same, Vulcan responds as follows:

11 Vulcan is not presently aware of interviewing any person who was not deposed as
12 part of the federal litigation that preceded the instant state court litigation.

13 INTERROGATORY NO. 12.3:

14 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** obtained a written or
15 recorded statement from any individual concerning the **INCIDENT**? If so, for each statement state:

16 (a) the name, **ADDRESS**, and telephone number of the individual from whom
17 the statement was obtained;

18 (b) the name, **ADDRESS**, and telephone number of the individual who obtained
19 the statement;

20 (c) the date the statement was obtained; and

21 (d) the name, **ADDRESS**, and telephone number of each **PERSON** who has the
22 original statement or a copy.

23 RESPONSE TO INTERROGATORY NO. 12.3:

24 In addition to the General Objections set forth above, Vulcan objects to this
25 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
26 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
27 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
28 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the

1 foregoing objections and the Preliminary Statement and General Objections set forth above and
2 incorporated herein, and without waiving the same, Vulcan responds as follows:

3 None that have not already been shared with Defendant.

4 INTERROGATORY NO. 12.4:

5 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any
6 photographs, films, or videotapes depicting any place, object, or individual concerning the
7 **INCIDENT** or plaintiff's injuries? If so, state:

- 8 (a) the number of photographs or feet of film or videotape;
- 9 (b) the places, objects, or persons photographed, filmed, or videotaped;
- 10 (c) the date the photographs, films, or videotapes were taken;
- 11 (d) the name, **ADDRESS**, and telephone number of the individual taking the

12 photographs, films, or videotapes; and

- 13 (e) the name, **ADDRESS**, and telephone number of each **PERSON** who has the
- 14 original or a copy of the photographs, films, or videotapes.

15 RESPONSE TO INTERROGATORY NO. 12.4:

16 In addition to the General Objections set forth above, Vulcan objects to this
17 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
18 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
19 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
20 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
21 foregoing objections and the Preliminary Statement and General Objections set forth above and
22 incorporated herein, and without waiving the same, Vulcan responds as follows:

23 None that have not already been shared with Defendant.

24 INTERROGATORY NO. 12.5:

25 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any diagram,
26 reproduction, or model of any place or thing (except for items developed by expert witnesses
27 covered by Code of Civil Procedure section 2034) concerning the **INCIDENT**? If so, for each item
28 state:

- 1 (a) the type (i.e., diagram, reproduction, or model);
- 2 (b) the subject matter; and
- 3 (c) the name, **ADDRESS**, and telephone number of each **PERSON** who has it.

4 RESPONSE TO INTERROGATORY NO. 12.5:

5 In addition to the General Objections set forth above, Vulcan objects to this
6 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
7 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
8 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
9 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
10 foregoing objections and the Preliminary Statement and General Objections set forth above and
11 incorporated herein, and without waiving the same, Vulcan responds as follows:

12 None that have not already been shared with Defendant.

13 INTERROGATORY NO. 12.6:

14 Was a report made by any **PERSON** concerning the **INCIDENT**? If so, state:

- 15 (a) the name, title, identification number, and employer of the **PERSON** who
16 made the report;
- 17 (b) the date and type of report made;
- 18 (c) the name, **ADDRESS**, and telephone number of the **PERSON** for whom the
19 report was made; and
- 20 (d) the name, **ADDRESS**, and telephone number of the **PERSON** who has the
21 original or a copy of the report.

22 RESPONSE TO INTERROGATORY NO. 12.6:

23 In addition to the General Objections set forth above, Vulcan objects to this
24 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
25 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
26 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
27 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
28 foregoing objections and the Preliminary Statement and General Objections set forth above and

1 incorporated herein, and without waiving the same, Vulcan responds as follows:

2 None that have not already been shared with Defendant.

3 INTERROGATORY NO. 12.7:

4 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** inspected the scene of
5 the **INCIDENT**? If so, for each inspection state:

6 (a) the name, **ADDRESS**, and telephone number of the individual making the
7 inspection (except for expert witnesses covered by Code of Civil Procedure section 2034); and

8 (b) the date of the inspection.

9 RESPONSE TO INTERROGATORY NO. 12.7:

10 In addition to the General Objections set forth above, Vulcan objects to this
11 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
12 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
13 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
14 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
15 foregoing objections and the Preliminary Statement and General Objections set forth above and
16 incorporated herein, and without waiving the same, Vulcan responds as follows:

17 None that have not already been shared with Defendant.

18 INTERROGATORY NO. 13.1:

19 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** conducted surveillance
20 of any individual involved in the **INCIDENT** or any party to this action? If so, for each
21 surveillance state:

22 (a) the name, **ADDRESS**, and telephone number of the individual or party;

23 (b) the time, date, and place of the surveillance;

24 (c) the name, **ADDRESS**, and telephone number of the individual who
25 conducted the surveillance; and

26 (d) the name, **ADDRESS**, and telephone number of each **PERSON** who has the
27 original or a copy of any surveillance photograph, film, or videotape.

28 RESPONSE TO INTERROGATORY NO. 13.1:

1 In addition to the General Objections set forth above, Vulcan objects to this
2 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
3 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
4 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
5 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
6 foregoing objections and the Preliminary Statement and General Objections set forth above and
7 incorporated herein, and without waiving the same, Vulcan responds as follows:

8 No.

9 INTERROGATORY NO. 13.2:

10 Has a written report been prepared on the surveillance? If so, for each written report
11 state:

- 12 (a) the title;
- 13 (b) the date;
- 14 (c) the name, **ADDRESS**, and telephone number of the individual who prepared
15 the report; and
- 16 (d) the name, **ADDRESS**, and telephone number of each **PERSON** who has the
17 original or a copy.

18 RESPONSE TO INTERROGATORY NO. 13.2:

19 In addition to the General Objections set forth above, Vulcan objects to this
20 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
21 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
22 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
23 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
24 foregoing objections and the Preliminary Statement and General Objections set forth above and
25 incorporated herein, and without waiving the same, Vulcan responds as follows:

26 Not applicable.

27 INTERROGATORY NO. 14.1:

28 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** contend that any

1 **PERSON** involved in the **INCIDENT** violated any statute, ordinance, or regulation and that the
2 violation was a legal (proximate) cause of the **INCIDENT**? If so, identify the name, **ADDRESS**,
3 and telephone number of each **PERSON** and the statute, ordinance, or regulation that was violated.

4 RESPONSE TO INTERROGATORY NO. 14.1:

5 In addition to the General Objections set forth above, Vulcan objects to this
6 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
7 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
8 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
9 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
10 foregoing objections and the Preliminary Statement and General Objections set forth above and
11 incorporated herein, and without waiving the same, Vulcan responds as follows:

12 No.

13 INTERROGATORY NO. 14.2:

14 Was any **PERSON** cited or charged with a violation of any statute, ordinance, or
15 regulation as a result of this **INCIDENT**? If so, for each **PERSON** state:

- 16 (a) the name, **ADDRESS**, and telephone number of the **PERSON**;
17 (b) the statute, ordinance, or regulation allegedly violated;
18 (c) whether the **PERSON** entered a plea in response to the citation or charge

19 and, if so, the plea entered; and

20 (d) the name and **ADDRESS** of the court or administrative agency, names of the
21 parties, and case number.

22 RESPONSE TO INTERROGATORY NO. 14.2:

23 In addition to the General Objections set forth above, Vulcan objects to this
24 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
25 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
26 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
27 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
28 foregoing objections and the Preliminary Statement and General Objections set forth above and

1 incorporated herein, and without waiving the same, Vulcan responds as follows:

2 No.

3 INTERROGATORY NO. 17.1:

4 Is your response to each request for admission served with these interrogatories an
5 unqualified admission? If not, for each response that is not an unqualified admission:

6 (a) state the number of the request;

7 (b) state all facts upon which you base your response;

8 (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS**
9 who have knowledge of those facts; and

10 (d) identify all **DOCUMENTS** and other tangible things that support your
11 response and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each
12 **DOCUMENT** or thing.

13 RESPONSE TO INTERROGATORY NO. 17.1:

14 In addition to the General Objections set forth above, Vulcan objects to this
15 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
16 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
17 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
18 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
19 foregoing objections and the Preliminary Statement and General Objections set forth above and
20 incorporated herein, and without waiving the same, Vulcan responds as follows:

21 **Request for Admission 1:** The leases in effect are as follows:

22 1947 Lease - January 1, 1947 - August 31, 1950

23 1950 Lease - August 31, 1950 - January 1, 1958

24 1958 Lease - January 1, 1958 - August 31, 1961

25 1961 Lease - September 1, 1961 - December 10, 1970

26 1970 Lease - December 11, 1970 - December 11, 1977

27 1977 Lease - December 11, 1977 - February 3, 1988

28 1988 Lease - February 4, 1988 - May 19, 1992

1 1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006
2 All of which are in the possession of both parties and are attached to the Complaint.

3 **Request for Admission 2:** The leases in effect are as follows:

- 4 1947 Lease - January 1, 1947 - August 31, 1950
- 5 1950 Lease - August 31, 1950 - January 1, 1958
- 6 1958 Lease - January 1, 1958 - August 31, 1961
- 7 1961 Lease - September 1, 1961 - December 10, 1970
- 8 1970 Lease - December 11, 1970 - December 11, 1977
- 9 1977 Lease - December 11, 1977 - February 3, 1988
- 10 1988 Lease - February 4, 1988 - May 19, 1992
- 11 1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006

12 All of which are in the possession of both parties and are attached to the Complaint.

13 **Request for Admission 3:** Vulcan and its predecessors-in-interest have owned the
14 Azusa property since prior to January 1947 and were aware of its condition by virtue of their
15 ownership.

16 **Request for Admission 4:** The Azusa property was not used as a "shooting range"
17 as Vulcan understands this phrase, prior to the first written lease between Vulcan and the Gun Club
18 in 1947.

19 **Request for Admission 5:** Vulcan does not claim that the Gun Club made "no
20 attempt" to clean up the property between December 31, 1947 and November 1, 2006. Rather
21 Vulcan contends that the Gun Club did not clean up the property as required pursuant to the terms
22 of the Lease Agreements and as required by applicable law.

23 **Request for Admission 6:** Vulcan informed the Gun Club on multiple occasions
24 that the presence of "Spent Ammunition" could cause damage to the Property. At a minimum, the
25 Gun Club was on notice of such information by virtue of the Lease Agreements which are in the
26 possession of the Gun Club and attached to the Complaint.

27 **Request for Admission 7:** Vulcan informed the Gun Club that the presence of
28 "Spent Ammunition" at the Property was causing damage to the Property on multiple occasions. At

1 a minimum, the Gun Club was on notice of such information by virtue of the Lease Agreements
2 which are in the possession of the Gun Club and attached to the Complaint.

3 **Request for Admission 8:** Vulcan told the Gun Club that the presence of lead from
4 bullets shot at the Property was causing damage to the Property on multiple occasions. At a
5 minimum, the Gun Club was on notice of such information by virtue of the Lease Agreements
6 which are in the possession of the Gun Club and attached to the Complaint.

7 **Request for Admission 9:** Vulcan told the Gun Club that lead bullets shot at the
8 Property could cause damage to the Property on multiple occasions. At a minimum, the Gun Club
9 was on notice of such information by virtue of the Lease Agreements which are in the possession of
10 the Gun Club and attached to the Complaint.

11 **Request for Admission 10:** At a minimum, the Lease Agreements put the Gun Club
12 on notice, prior to January 1, 2003, that they were required to remove "Spent Ammunition" from the
13 Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste
14 or nuisance on the property and from interfering with the use and enjoyment of neighboring
15 properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws,
16 including environmental laws, and (3) required that the Gun Club maintain the property in good
17 condition and repair and, upon termination of the lease, return the Final Leasehold Property in an
18 orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club
19 and are attached to the Complaint.

20 **Request for Admission 11:** At a minimum, The Lease Agreements put the Gun
21 Club on notice, prior to January 1, 2003, that they were required to remove "lead" from the
22 Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste
23 or nuisance on the property and from interfering with the use and enjoyment of neighboring
24 properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws,
25 including environmental laws, and (3) required that the Gun Club maintain the property in good
26 condition and repair and, upon termination of the lease, return the Final Leasehold Property in an
27 orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club
28 and are attached to the Complaint.

1 **Request for Admission 12:** The Lease Agreements put the Gun Club on notice,
2 prior to 2004, that they were specifically required to remove "Spent Ammunition" from the
3 Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste
4 or nuisance on the property and from interfering with the use and enjoyment of neighboring
5 properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws,
6 including environmental laws, and (3) required that the Gun Club maintain the property in good
7 condition and repair and, upon termination of the lease, return the Final Leasehold Property in an
8 orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club
9 and are attached to the Complaint.

10 **Request for Admission 13:** The Lease Agreements put the Gun Club on notice,
11 prior to 2004, that they were specifically required to remove "lead" from the Property. Specifically,
12 the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the
13 property and from interfering with the use and enjoyment of neighboring properties, (2) obligated
14 the Gun Club to comply with all applicable federal, state and local laws, including environmental
15 laws, and (3) required that the Gun Club maintain the property in good condition and repair and,
16 upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary
17 condition. The Lease Agreements are in the possession of the Gun Club and are attached to the
18 Complaint.

19 **Request for Admission 14:** The Lease Agreements put the Gun Club on notice,
20 prior to 2004, that they were specifically required to remove "Spent Ammunition" from the
21 Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste
22 or nuisance on the property and from interfering with the use and enjoyment of neighboring
23 properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws,
24 including environmental laws, and (3) required that the Gun Club maintain the property in good
25 condition and repair and, upon termination of the lease, return the Final Leasehold Property in an
26 orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club
27 and are attached to the Complaint.

28 **Request for Admission 15:** The Lease Agreements put the Gun Club on notice,

1 prior to 2004, that they were specifically required to remove "lead" from the Property. Specifically,
2 the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the
3 property and from interfering with the use and enjoyment of neighboring properties, (2) obligated
4 the Gun Club to comply with all applicable federal, state and local laws, including environmental
5 laws, and (3) required that the Gun Club maintain the property in good condition and repair and,
6 upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary
7 condition. The Lease Agreements are in the possession of the Gun Club and are attached to the
8 Complaint.

9 **Request for Admission 16:** The Lease Agreements include a provision specifically
10 dealing with "Spent Ammunition." Specifically, the Lease Agreements (1) precluded the Gun Club
11 from committing waste or nuisance on the property and from interfering with the use and enjoyment
12 of neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state
13 and local laws, including environmental laws, and (3) required that the Gun Club maintain the
14 property in good condition and repair and, upon termination of the lease, return the Final Leasehold
15 Property in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of
16 the Gun Club and are attached to the Complaint.

17 **Request for Admission 17:** The Lease Agreements include a provision specifically
18 dealing with "lead." Specifically, the Lease Agreements (1) precluded the Gun Club from
19 committing waste or nuisance on the property and from interfering with the use and enjoyment of
20 neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state and
21 local laws, including environmental laws, and (3) required that the Gun Club maintain the property
22 in good condition and repair and, upon termination of the lease, return the Final Leasehold Property
23 in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun
24 Club and are attached to the Complaint.

25 **Request for Admission 30:** At no time prior to May 20, 1992 did Vulcan have any
26 knowledge that any purported "Waste Material" had resulted in the burial of lead bullets.

27
28 INTERROGATORY NO. 50.1:

1 For each agreement alleged in the pleadings:

2 (a) identify each **DOCUMENT** that is part of the agreement and for each state
3 the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**;

4 (b) state each part of the agreement not in writing, the name, **ADDRESS**, and
5 telephone number of each **PERSON** agreeing to that provision, and the date that part of the
6 agreement was made;

7 (c) identify all **DOCUMENTS** that evidence any part of the agreement not in
8 writing and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has
9 the **DOCUMENT**;

10 (d) identify all **DOCUMENTS** that are part of any modification to the
11 agreement, and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who
12 has the **DOCUMENT**;

13 (e) state each modification not in writing, the date, and the name, **ADDRESS**,
14 and telephone number of each **PERSON** agreeing to the modification, and the date the modification
15 was made;

16 (f) identify all **DOCUMENTS** that evidence each modification of the agreement
17 not in writing and for each state the name, **ADDRESS**, and telephone number of each **PERSON**
18 who has the **DOCUMENT**.

19 RESPONSE TO INTERROGATORY NO. 50.1:

20 In addition to the General Objections set forth above, Vulcan objects to this
21 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
22 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
23 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
24 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
25 foregoing objections and the Preliminary Statement and General Objections set forth above and
26 incorporated herein, and without waiving the same, Vulcan responds as follows:

27 **1947 Lease**

28 (a) 1947 Lease, Vulcan - can be contacted through counsel as captioned above; Gun

1 Club.
2 (b) None.
3 (c) None.
4 (d) None.
5 (e) None.
6 (f) None.
7 **1950 Lease**
8 (a) 1950 Lease, Vulcan - can be contacted through counsel as captioned above; Gun
9 Club.
10 (b) None.
11 (c) None.
12 (d) None.
13 (e) None.
14 (f) None.
15 **1958 Lease**
16 (a) 1958 Lease, Vulcan - can be contacted through counsel as captioned above; Gun
17 Club.
18 (b) None.
19 (c) None.
20 (d) None.
21 (e) None.
22 (f) None.
23 **1961 Lease**
24 (a) 1961 Lease, Vulcan - can be contacted through counsel as captioned above; Gun
25 Club.
26 (b) None.
27 (c) None.
28 (d) None.

1 (e) None.
2 (f) None.
3 **1970 Lease**
4 (a) 1970 Lease, Vulcan - can be contacted through counsel as captioned above; Gun
5 Club.

6 (b) None.
7 (c) None.
8 (d) None.
9 (e) None.
10 (f) None.

11 **1977 Lease**
12 (a) 1977 Lease, Vulcan - can be contacted through counsel as captioned above; Gun
13 Club.

14 (b) None.
15 (c) None.
16 (d) None.
17 (e) None.
18 (f) None.

19 **1988 Lease**
20 (a) 1988 Lease, Vulcan - can be contacted through counsel as captioned above; Gun
21 Club.

22 (b) None.
23 (c) None.
24 (d) None.
25 (e) None.
26 (f) None.

27 **1992 Lease**
28 (a) 1992 Lease, Vulcan - can be contacted through counsel as captioned above; Gun

- 1 Club.
- 2 (b) None.
- 3 (c) None.
- 4 (d) 1992 Lease Amendment, Vulcan - can be contacted through counsel as captioned
- 5 above; Gun Club.
- 6 (e) None.
- 7 (f) None.

8 **1992 Lease Amendment**

- 9 (a) 1992 Lease Amendment, Vulcan - can be contacted through counsel as captioned
- 10 above; Gun Club.
- 11 (b) None.
- 12 (c) None.
- 13 (d) None.
- 14 (e) None.
- 15 (f) None.

16 INTERROGATORY NO. 50.2:

17 Was there a breach of any agreement alleged in the pleadings? If so, for each breach
18 describe and give the date of every act or omission that you claim is the breach of the agreement.

19 RESPONSE TO INTERROGATORY NO. 50.2:

20 In addition to the General Objections set forth above, Vulcan objects to this
21 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
22 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
23 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
24 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
25 foregoing objections and the Preliminary Statement and General Objections set forth above and
26 incorporated herein, and without waiving the same, Vulcan responds as follows:

27 Yes.

28 **1947 Lease**

- 1 **1950 Lease**
- 2 **1958 Lease**
- 3 **1961 Lease**
- 4 **1970 Lease**
- 5 **1977 Lease**
- 6 **1988 Lease**
- 7 **1992 Lease**
- 8 **1992 Lease Amendment**

9 From approximately January 1947 to November 2006, pursuant to the above
10 mentioned leases, Gun Club leased some or all of Vulcan's Property from Vulcan for the purposes
11 of operating a gun club and firearms shooting range. The Gun Club's activities extensively
12 contaminated the soil and potentially groundwater at and underlying the Vulcan Property and,
13 potentially, neighboring parcels with heavy metals and other hazardous substances (the
14 "Contamination"). During the Gun Club's operation and use of the Vulcan Property, hazardous
15 substances were used, dumped, released, deposited, and/or disposed of onto and into the soil and,
16 potentially, the groundwater at, on, beneath the Vulcan Property and, potentially, neighboring
17 properties.

18 On or about August and September 2005 the Gun Club disclaimed any responsibility
19 for remediating the Contamination. By July 2006, the Gun Club had done little or nothing to
20 remediate Vulcan's Property. On or about November 1, 2006, Vulcan received a proposal from the
21 Gun Club for a Phase I Environmental Site Assessment ("ESA") and a Phase II ESA proposal (the
22 "Assessment Proposals") for the Vulcan Property.

23 The Gun Club ceased operations as of approximately November 6, 2006 but
24 remained in possession of the Final Leasehold Property, purportedly for the purpose of remediating
25 the contamination caused by the Gun Club's operations.

26 On November 9, 2006, Vulcan detailed its concerns about the Assessment Proposals.
27 Among other things, Vulcan informed the Gun Club that the Assessment Proposals: (a) failed to
28 mention the requirement for governmental oversight of the assessment and cleanup; (b) did not

1 provide for thorough remediation of all contamination caused by the Gun Club's activities during its
2 tenancy; (c) would leave significant contamination remaining in the ground on the Vulcan Property
3 and, potentially, in off-site areas contaminated by the Gun Club activities; and (d) failed to provide
4 for confirmation sampling to ensure proper and sufficient clean up.

5 Rather than specifically respond to Vulcan's November 9, 2006 correspondence, the
6 Gun Club responded on or about January 2, 2007 with a letter stating that "the cleanup of the site
7 has commenced and may well be complete before the end of January 2007." The Gun Club further
8 indicated that on-site cleanup would be performed in conformity with, and there was no money for
9 remediation beyond, the EPA's Best Management Practices For Lead at Outdoor Shooting Ranges
10 ("EPA's Shooting Range BMP").

11 By letter dated January 4, 2007, Vulcan informed the Gun Club that EPA's Shooting
12 Range BMP does not provide the appropriate remedial guidance or standards for closed gun ranges,
13 including the Vulcan Property. Notably, EPA's Shooting Range BMP neither sets numerical
14 standards for lead or other hazardous substances in soil nor complies with the California
15 Department of Toxic Substances Control's ("DTSC") regulation of closed and abandoned outdoor
16 shooting ranges. Vulcan therefore insisted that the Gun Club's remediation comport with DTSC
17 requirements, including, but not limited to, adequate soil sampling and preparation of a Preliminary
18 Endangerment Assessment ("PEA").

19 Vulcan again wrote to the Gun Club on May 17, 2007, expressing its concern that the
20 Gun Club had not yet commenced clean-up efforts and had only recently hired a lead reclamation
21 contractor to begin reclaiming lead at the Vulcan Property. Vulcan also noted that the Gun Club's
22 contractor was not properly licensed or insured and had not obtained the permits necessary to
23 perform any work. Additionally, Vulcan explained that the Gun Club's contractor had not prepared
24 a proper scope of work nor complied with Vulcan's previous requests that the cleanup be performed
25 under appropriate governmental oversight.

26 On May 30, 2007, the Gun Club declared that it was not required to provide a PEA
27 or a proper scope of work (including necessary assessment, confirmation sampling, and remediation
28 requirements), and claimed that its limited finances precluded the Gun Club from performing the

1 type of remediation as required by Vulcan and mandated by applicable law.

2 After the Gun Club failed to take any meaningful steps to investigate and remediate
3 the Contamination, Vulcan again wrote to the Gun Club on or about January 16, 2008 demanding
4 that the Gun Club commence agency approved remediation activities by February 4, 2008.

5 Defendants failed to comply with the February 4, 2008 deadline.

6 Defendants have not followed DTSC requirements for environmental cleanup and
7 have failed to remediate the contamination at the Azusa Property.

8 Defendants have also breached the Leases referenced above, by:

- 9 • Failing to indemnify Vulcan for damage to the leased property caused by the
10 Gun Club's use of said property;
- 11 • Failing to indemnify Vulcan for damage to portions of the Azusa Property
12 not leased by Gun Club and caused by Gun Club's used of leased portions of
13 the Vulcan property;
- 14 • Permitting waste on the Azusa Property;
- 15 • Permitting nuisance on the Azusa Property;
- 16 • Interfering with the use and enjoyment of neighboring real property;
- 17 • Failing to keep the leased property in good repair and conditions;
- 18 • Failing to keep the leased property in good order and in a safe, sanitary
19 condition;
- 20 • Failing to return the leased property in a good, safe and sanitary condition
21 satisfactory to Vulcan at the termination of the Leases;
- 22 • Permitting the conduct of unlawful activities on the leased property; and
- 23 • Failing to comply with all applicable laws wherein the leased property is
24 located.
25
26
27
28

1 INTERROGATORY NO. 50.3:

2 Was performance of any agreement alleged in the pleadings excused? If so, identify
3 each agreement excused and state why performance was excused.

4 RESPONSE TO INTERROGATORY NO. 50.3:

5 In addition to the General Objections set forth above, Vulcan objects to this
6 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
7 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
8 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
9 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
10 foregoing objections and the Preliminary Statement and General Objections set forth above and
11 incorporated herein, and without waiving the same, Vulcan responds as follows:

12 No.

13 INTERROGATORY NO. 50.4:

14 Was any agreement alleged in the pleadings terminated by mutual agreement,
15 release, accord and satisfaction, or novation? If so, identify each agreement terminated, the date of
16 termination and the basis of the termination.

17 RESPONSE TO INTERROGATORY NO. 50.4:

18 In addition to the General Objections set forth above, Vulcan objects to this
19 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
20 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
21 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
22 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
23 foregoing objections and the Preliminary Statement and General Objections set forth above and
24 incorporated herein, and without waiving the same, Vulcan responds as follows:

25 No.

26 INTERROGATORY NO. 50.5:

27 Is any agreement alleged in the pleadings unenforceable? If so, identify each
28 unenforceable agreement and state why it is unenforceable.

1 RESPONSE TO INTERROGATORY NO. 50.5:

2 In addition to the General Objections set forth above, Vulcan objects to this
3 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
4 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
5 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
6 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
7 foregoing objections and the Preliminary Statement and General Objections set forth above and
8 incorporated herein, and without waiving the same, Vulcan responds as follows:

9 No.

10 INTERROGATORY NO. 50.6:

11 Is any agreement alleged in the pleadings ambiguous? If so, identify each
12 ambiguous agreement and state why it is ambiguous.

13 RESPONSE TO INTERROGATORY NO. 50.6:

14 In addition to the General Objections set forth above, Vulcan objects to this
15 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
16 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
17 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
18 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
19 foregoing objections and the Preliminary Statement and General Objections set forth above and
20 incorporated herein, and without waiving the same, Vulcan responds as follows:

21 No.

22
23 DATED: June 12, 2012

JEFFER MANGELS BUTLER & MITCHELL LLP
KENNETH A. EHRLICH
ELIZABETH A. CULLEY

24
25
26 By: 
ELIZABETH A. CULLEY
27 Attorneys for Plaintiff CALMAT CO. DBA VULCAN
MATERIALS COMPANY, WESTERN DIVISION
28

Exhibit 1

Vulcan Materials Company: San Gabriel Valley Gun Club

INSURANCE COVERAGE CHART

<u>POLICY DATES</u>	<u>POLICY NUMBER</u>	<u>INSURER</u>	<u>INSURED</u>	<u>POLICY TYPE</u>	<u>COVERAGE AMOUNTS</u>	<u>SOURCE</u>
11/29/48-11/29/49	G 1062406	General Accident Fire and Life Assurance Corporation Limited	San Gabriel Valley Gun Club	Public Liability	Public Liability Special Endorsement - \$50,000	
1/4/50-1/4/51	OLT 455562	Hartford Accident and Indemnity Company	San Gabriel Valley Gun Club	Public Liability [Property Damage]	Public Liability coverage: \$100,000 for each person, \$300,000 for each accident [Property Damage] coverage: \$50,000	
8/15/50-2/3/51	189381	California Compensation Insurance Company	San Gabriel Valley Gun Club	Workmen's Compensation	Workmen's Compensation coverage:	
1/4/51-1/4/52	OLT 521055	Hartford Accident and Indemnity Company	San Gabriel Valley Gun Club	Public Liability Property Damage	Public Liability coverage: \$100,000 for each person, \$300,000 for each accident Property Damage coverage: \$50,000	

4/1/51-4/1/52	OLT 542079	Hartford Accident and Indemnity Company	San Gabriel Valley Gun Club	Public Liability Property Damage	Public Liability coverage: \$100,000 for each person, \$300,000 for each accident Property Damage coverage: \$50,000	
3/26/75-3/26/76	GL 1 73 36	Hallmark Insurance Company	San Gabriel Valley Gun Club	Owners', Landlords' and Tenants' Liability Automobile Liability Completed Operations and Products	Owners', Landlords' and Tenants' Liability coverage: \$500,000 combined single limit Automobile Liability coverage: \$250 per person, \$500 per incident Completed Operations and Products coverage: \$500,000 combined single limit	

6/20/75-6/20-76	POP 02-57-21	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability/ Premises – Liability General Liability/ Products – Completed Operations Auto	General Liability/ Premises – Liability coverage: \$300,000 each occurrence of bodily injury and \$300,000 each occurrence of property damage General Liability/ Products – Completed Operations coverage: \$300,000 each occurrence of bodily injury and \$300,000 each occurrence of property damage Auto coverage: \$100 per person and \$300 per occurrence for owned automobiles and bodily injury; \$100 per person and \$300 per occurrence for hired automobiles; \$100 per person and \$300 per occurrence for non- owned automobiles; \$100 per occurrence for property damage in an owned, hired, or non-owned automobile	
6/20/75-6/20/76	XBC 117831	Pacific Employers Group of Insurance Companies	San Gabriel Valley Gun Club	Excess Blanket Catastrophe Liability	Excess blanket catastrophe liability coverage: up to \$1,000,000	

8/30/79-6/20/80	POP 81-23-18	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability Auto	General Liability coverage: \$500,000 bodily injury and property damage combined for each occurrence and in the aggregate Auto coverage: \$500,000 bodily injury and property damage combined for each occurrence	
8/30/79-6/20/80	XLP 1735	Western World Insurance Company	San Gabriel Valley Gun Club	Excess Liability – other than Umbrella	Excess Liability coverage: \$500,000 bodily injury and property damage combined for each occurrence and in the aggregate	
8/30/79-10/1/79	CC 10-351-205674	Argonaut Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	Worker's Compensation and Employers' Liability coverage: \$2,000 per accident	
10/15/79-10/1/80	WC 74-375-000345	Argonaut Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	Worker's Compensation and Employers' Liability coverage: \$2,000 per accident	
6/20/80-6/20/81	POP 81-23-18	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability Auto	General Liability coverage: \$500,000 bodily injury and property damage combined for each occurrence and in the aggregate Auto coverage: \$500,000 bodily injury and property damage combined for each occurrence	

6/20/80-6/20/81	XLP 1735	Western World Insurance Company	San Gabriel Valley Gun Club	Excess Liability – other than Umbrella	Excess Liability coverage: \$500,000 bodily injury and property damage combined for each occurrence and in the aggregate	
6/20/80-10/1/80	CC 74 375 000345	Argonaut Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	Worker's Compensation and Employers' Liability coverage: \$2,000 per accident	
12/16/80-10/1/81	WC 74-387-000345	Argonaut Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	Worker's Compensation and Employers' Liability coverage: \$2,000 per accident	
6/20/81-6/20/82	M 878783	Mission Insurance Company	San Gabriel Valley Gun Club	Excess Umbrella Liability	Excess Umbrella Liability coverage: \$1,000,000	
6/20/81-7/20/81	Binder No. 3490	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability and Auto	Binder to extend coverage to POP 81-23-18 All building values increased 15%	
6/20/81-6/20/82	POP 81-23-18	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability and Auto	Property coverage increase. We are unable determine the total limit, but coverage is at least \$75,000. (General Liability and Auto coverage)	
10/1/81-11/1/81	Binder No. 3630	Argonaut Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	Binder to extend coverage to WC 74 387 000345	

9/30/81-10/1/82	WC 74 399 000346	Argonaut Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	Worker's Compensation and Employers' Liability coverage: \$2,000 per accident	
11/3/81-10/1/82	WC 74 399 000346	Argonaut Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	Worker's Compensation and Employers' Liability coverage: \$2,000 per accident (this certificate is in lieu of certificate dated 9/30/81)	
10/26/81-6/20/82	POP 81-23-18	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability and Auto	Additional Insured – Reliance Land Company ¹	
6/21/82-6/20/83	POP 293-56-91	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability Auto	General Liability coverage: \$500,000 bodily injury and property damage combined for each occurrence and in the aggregate Auto coverage: \$500,000 bodily injury and property damage combined for each occurrence	
6/21/82-6/20/83 (6/20/82 – 6/20/83)	MN 010653	Mission National Insurance	San Gabriel Valley Gun Club	Excess Liability – other than Umbrella	Excess Liability coverage: \$2,000 bodily injury and property damage combined for each occurrence and in the aggregate	<u>LAG has copy of Policy</u>

¹ Reliance Land Company appears to be a related CalMat entity, as its business address is 3200 San Fernando Road, Los Angeles, CA 90065.

6/21/82-10/1/82	74 399 000345	Argonaut Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	Worker's Compensation and Employers' Liability coverage: \$2,000 per accident	
6/20/82-?	POP 293-56-91	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability and Auto	Additional Insured – Reliance Land Company (General Liability and Auto coverage)	
10/20/82-10/1/83	WC 74 411 000345	Argonaut Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	Worker's Compensation and Employers' Liability coverage: \$2,000 per accident California	
6/20/83-6/20/84	MN 101653	Mission National Insurance	San Gabriel Valley Gun Club	Excess Liability	Renewal (Excess Liability coverage)	
6/20/83-6/20/84	POP 293-56-91	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability and Auto	Renewal (General Liability and Auto coverage)	
10/1/83-10/1/84	WC 74-423-000345	Argonaut Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	Renewal of WC 74-411-000345	
6/20/84 – 6/20/85	POP2935691	New Hampshire Insurance Company	San Gabriel Valley Gun Club	Comprehensive General Liability	Combined Single Limit (Bodily Injury and Property Damage): \$500,000 each occurrence \$500,000 aggregate	<u>Schedule of underlying from Mission umbrella 6/20/84 – 6/20/85 and certificate of insurance</u>

6/20/84 – 6/20/85	MN033924	Mission National Insurance Company	San Gabriel Valley Gun Club	Umbrella Liability	\$2,000,000 excess of underlying occurrence limit \$2,000,000 excess underlying aggregate limit	<u>Policy</u>
6/20/84 – 6/20/85	Not Stated	Argonaut Insurance Co.	San Gabriel Valley Gun Club	Employers' Liability	\$2,000,000 each accident	<u>Schedule of underlying from Mission umbrella 6/20/84 – 6/20/85</u>
6/20/85 – 6/20/86	Policy No. Not Stated	New Hampshire Insurance Company	San Gabriel Valley Gun Club	Comprehensive General Liability	Combined Single Limit (Bodily Injury and Property Damage): \$500,000 each occurrence \$500,000 aggregate	<u>Schedule of underlying from Mission umbrella 6/20/85 – 6/20/86</u>
6/20/85 – 6/20/86	MN043429	Mission National Insurance Company	San Gabriel Valley Gun Club	Umbrella Liability	\$2,000,000 excess of underlying	<u>Policy</u>
6/20/85 – 6/20/86	Not Stated	Argonaut Insurance Co.	San Gabriel Valley Gun Club	Employers' Liability	\$2,000,000 each accident	<u>Schedule of underlying from Mission umbrella 6/20/85 – 6/20/86</u>
6/30/86 – 6/30/88	S1544638	National Union Fire Insurance Company of Pittsburgh, PA	San Gabriel Valley Gun Club	Comprehensive General Liability	Bodily Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	<u>Policy</u>

6/30/88 – 6/30/89	GL6404527	New Hampshire Insurance Company	San Gabriel Gun Club	Comprehensive General Liability	Bodily Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	<u>Policy</u>
6/30/89 – 6/30/90	CPO9925564	New Hampshire Insurance Company	San Gabriel Gun Club	Commercial General Liability	\$1,000,000 each occurrence \$1,000,000 aggregate products-completed operations \$1,000,000 general aggregate (other than products-completed operations)	<u>Policy</u>
10/1/89 – 10/1/90	93W838672689J	Continental Insurance	San Gabriel Gun Club	Employers Liability	“Bodily injury” by accident: \$1,000,000 each accident “Bodily injury” by disease: \$1,000,000 policy limit “Bodily injury” by disease: \$1,000,000 each employee	<u>Schedule of underlying from New Hampshire umbrella 6/30/90 – 6/30/91</u>

6/30/90-6/30/91	CPO9925564	New Hampshire Insurance Group (New Hampshire Insurance Company)	San Gabriel Valley Gun Club	General Liability – Occurrence	Renewal of CPO 9925564 General Aggregate - \$1,000,000 Products - \$1,000,000 Personal and Advertising Injury - \$1,000,000 Each Occurrence - \$1,000,000 Fire Damage (any one fire) – \$50,000 Medical Expense (any one person) - \$5,000	<u>Schedule of underlying from New Hampshire umbrella policy 6/30/90 – 6/30/91</u>
6/30/90 – 6/30/91	UL6282689	New Hampshire Insurance Company	San Gabriel Valley Gun Club	Commercial Liability Umbrella	\$1,000,000 single limit any one occurrence “Bodily Injury” and “Property Damage” Liability \$1,000,000 policy aggregate limit	<u>Policy</u>
6/30/91 – 6/30/92	CPO9925564	New Hampshire Insurance Company	San Gabriel Valley Gun Club	Commercial General Liability	Not Stated	<u>Renewal certificate and endorsement effective 6/30/91</u>
6/30/91 – 6/30/92	UL3291314	New Hampshire Insurance Company	San Gabriel Valley Gun Club	Commercial Liability Umbrella	Not Stated	<u>Renewal number taken from New Hampshire Insurance Company umbrella policy 6/30/92 – 6/30/93</u>

10/1/91 – 10/1/92	93W838772790J	Continental Insurance	San Gabriel Gun Club	Employers Liability	<p>“Bodily injury” by accident: \$1,000,000 each accident</p> <p>“Bodily injury” by disease: \$1,000,000 policy limit</p> <p>“Bodily injury” by disease: \$1,000,000 each employee</p>	<u>Schedule of underlying from New Hampshire umbrella 6/30/92 – 6/30/93</u>
6/30/92 – 6/30/93	CPO9925564	New Hampshire Insurance Company	San Gabriel Valley Gun Club	Commercial General Liability	<p>\$1,000,000 each occurrence</p> <p>\$1,000,000 aggregate products-completed operations</p> <p>\$1,000,000 general aggregate (other than products-completed operations)</p>	<u>Partial Policy</u>
6/30/92 – 6/30/93	UL3291946	New Hampshire Insurance Company	San Gabriel Valley Gun Club	Commercial Liability Umbrella	<p>\$1,000,000 single limit any one occurrence “Bodily Injury” and “Property Damage” Liability</p> <p>\$1,000,000 policy aggregate limit</p>	<u>Policy</u>

3/1/95-3/1/96	[Pending]	First Financial Insurance Company	San Gabriel Valley Gun Club	General Liability [- Occurrence]	General Aggregate - \$2,000,000 Products - \$1,000,000 Personal and Advertising Injury - \$1,000,000 Each Occurrence - \$1,000,000 Fire Damage (any one fire) - \$50,000 Medical Expense (any one person) - \$1,000	
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3/26/96-3/26/97	AGR6933261	Zurich-American Insurance Company	San Gabriel Valley Gun Club	General Liability – Occurrence	General Aggregate - \$2,000,000 Products - \$2,000,000 Personal and Advertising Injury - \$1,000,000 Each Occurrence - \$1,000,000 Fire Damage (any one fire) – \$50,000 Medical Expense (any one person) - \$5,000 Combined Single Limit - \$1,000,000 for scheduled, hired, non-owned autos and auto physical damage
3/26/96-3/26/97	BAP6933262			Auto	Each Occurrence - \$10,000,000; Aggregate - \$10,000,000
3/26/96-3/26/97	CC8538932			Excess Liability – Umbrella	
				Other – Property Coverages	

10/20/98- 10/20/99	F0149G4233323	First Financial Insurance Company	San Gabriel Valley Gun Club	Commercial General Liability	General Aggregate - \$2,000,000 Products - \$2,000,000 Personal and Advertising Injury - \$2,000,000 Each Occurrence - \$2,000,000 Fire Damage (any one fire) -- \$10,000 Medical Expense (any one person) - \$1,000	
6/30/2000- 6/30/2001	CP02296262 UL2101899	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability – Occurrence Excess Liability	General Aggregate - \$2,000,000 Products - \$1,000,000 Personal and Advertising Injury - \$1,000,000 Each Occurrence - \$1,000,000 Fire Damage (any one fire) – \$50,000 Medical Expense (any one person) - \$5,000 Each Occurrence - \$1,000,000	

10/1/1999- 10/1/2000	NWC324364	Golden Eagle Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	WC Statutory Limits Each Accident - \$1,000,000 Disease – Each Employee - \$1,000,000 Disease – Policy Limit - \$1,000,000	
6/30/2001- 6/30/2002	CPO9953107	New Hampshire Insurance Group	San Gabriel Valley Gun Club	General Liability – Occurrence	General Aggregate - \$2,000,000 Products - \$1,000,000 Personal and Advertising Injury - \$1,000,000 Each Occurrence - \$1,000,000 Fire Damage (any one fire) – \$50,000 Medical Expense (any one person) - \$5,000	

6/30/2001- 6/30/2002	CPO9953374	Granite State Insurance Company	San Gabriel Valley Gun Club	General Liability – Occurrence	General Aggregate - \$2,000,000 Products - \$1,000,000 Personal and Advertising Injury - \$1,000,000 Each Occurrence - \$1,000,000 Fire Damage (any one fire) – \$50,000 Medical Expense (any one person) - \$5,000
7/1/03-7/1/04	GLO8384053-07	Zurich-American Insurance Company	San Gabriel Valley Gun Club	General Liability – Occurrence	General Aggregate - \$3,000,000 Products - \$3,000,000 Personal and Advertising Injury - \$2,000,000 Each Occurrence - \$2,000,000 Fire Damage (any one fire) – \$1,000,000 Medical Expense (any one person) - \$10,000 Any Auto
7/1/03-7/1/04	BAP8384027-07			Business Auto	Combined Single Limit (each accident) - \$2,000,000

6/30/04-05	CPO 9953374	Granite State Insurance Company	San Gabriel Valley Gun Club	General Liability -- Occurrence	General Aggregate - \$2,000,000 Products - \$1,000,000 Personal and Advertising Injury - \$1,000,000 Each Occurrence - \$1,000,000 Fire Damage (any one fire) -- \$50,000 Medical Expense (any one person) - \$5,000
6/30/2004-7/30/2004	Binder No. B04063000493	Granite State Insurance Company	San Gabriel Valley Gun Club		Binder -- "This binder is a summation of the limits, terms coverages, and conditions all of which are superceded by the actual policy when issued."
6/30/04-05	29UD64414640	Granite State Insurance Company	San Gabriel Valley Gun Club	Excess Liability - Umbrella	Each Occurrence - \$1,000,000 Aggregate - \$1,000,000 Self-insured Retention - \$10,000

1/1/04-1/1/05	WC9298289-04	Zurich-American Insurance Company	San Gabriel Valley Gun Club	Worker's Compensation and Employers' Liability	WC Statutory Limits Each Accident - \$1,000,000 Disease - Each Employee - \$1,000,000 Disease - Policy Limit - \$1,000,000	
6/30/2004-6/30/2005	CPO9953374	Granite State Insurance Company	San Gabriel Valley Gun Club	General Liability -- Occurrence	General Aggregate - \$2,000,000 Products - \$1,000,000 Personal and Advertising Injury - \$1,000,000 Each Occurrence - \$1,000,000 Fire Damage (any one fire) - \$50,000 Medical Expense (any one person) - \$5,000 Damage to Rented Premises (each occurrence) - \$50,000	

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

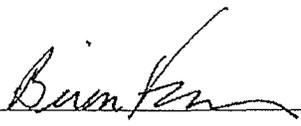
I have read the foregoing RESPONSES TO REQUESTS FOR FORM INTERROGATORIES, SET ONE, PROPOUNDED ON PLAINTIFF VULCAN MATERIALS COMPANY and know its contents.

CHECK APPLICABLE PARAGRAPH

- I am a party to this action. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.
- I am an Officer a partner, the Vice President, Assistant General Counsel of Calmat Co. dba Vulcan Materials Company, Western Division, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing document and know its contents. I am informed and believe that the matters stated herein are true.
- I am one of the attorneys for _____, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I have read the foregoing document and know its contents. I am informed and believe and on that ground allege that the matters stated in it are true.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on June 13, 2012, at Glendale, California.



BRIAN FERRIS

PROOF OF SERVICE

STATE OF CALIFORNIA, CITY AND COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 1900 Avenue of the Stars, 7th Floor, Los Angeles, California 90067.

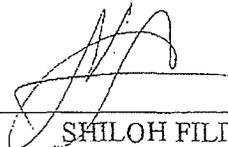
On June 13, 2012 I served the document(s) described as **RESPONSES TO REQUESTS FOR FORM INTERROGATORIES, SET ONE, PROPOUNDED ON PLAINTIFF VULCAN MATERIALS COMPANY** on the following in this action addressed as follows:

**C.D. Michel
W. Lee Smith
Thomas E. Maciejewski
MICHEL & ASSOCIATES, P.C.
180 East Ocean Boulevard, Suite 200
Long Beach, CA 90802
Telephone: 562.216.4444
Facsimile: 562.216.4445
Attorneys for Defendant San Gabriel Valley Gun Club**

- (BY MAIL) I am "readily familiar" with the business' practice for collection and processing correspondence for mailing. Under that practice true and correct copies of the aforementioned document(s) was deposited, in a sealed envelope with postage thereon fully prepaid, with the U.S. Postal Service on that same day to be mailed via first class mail at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- (BY ELECTRONIC SERVICE) On _____, I transmitted the aforementioned document(s) directly, through an agent, or through a designated electronic filing service provider to the aforementioned electronic notification address(es). The transmission originated from my electronic notification address, which is _____, and was reported as complete and without error. Pursuant to Rule 2.260(f)(4), I will maintain a printed form of this document bearing my original signature and will make the document available for inspection and copying on the request of the court or any party to the action or proceeding in which it is filed, in the manner provided in rule 2.257(a).
- (BY OVERNIGHT DELIVERY) I placed the aforementioned document(s) in a sealed envelope with postage thereon fully prepaid and I caused said envelope to be delivered overnight via an overnight delivery service in lieu of delivery by mail to the addressee(s).

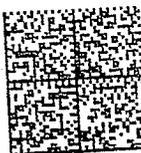
Executed on June 13, 2012 at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

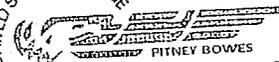


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EXHIBIT 3

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TUCSON, AZ

JUNE 22, 2012

Elizabeth A. Culley
JEFFER, MANGELS, BUTLER & MITCHELL, LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067

Re: Plaintiff Vulcan's Responses to Form Interrogatories (Set One) and Request for Admissions (Set One) propounded by Defendant San Gabriel Valley Gun Club (*Vulcan v. San Gabriel Valley Gun Club*, E.D. Cal. Case No. KC062582)

Ms. Culley:

We write in response to Plaintiff Vulcan Materials Co.'s ("Vulcan") responses to the First Sets of Requests for Admissions and Form Interrogatory propounded by Defendant San Gabriel Valley Gun Club ("SGVGC"). This letter constitutes an initial attempt at informal resolution of insufficient responses provided in the abovementioned responses, sent pursuant to Code of Civil Procedure sections 2016.040, 2030.300(b), and 2033.290(b). Pursuant to previous communications between our offices, a followup teleconference will be held the week of June 25, 2012.

Even though SGVGC granted Vulcan an additional three weeks to respond to the abovementioned discovery that Vulcan characterized as "voluminous," Vulcan failed to provide substantive responses to most of the informational request made. And as to the (somewhat) substantive responses that were given, most were patently evasive and dilatory in nature. This is by no means the first time Vulcan has been less than forthcoming in responding to discovery propounded by SGVGC. E.g., Vulcan provided a spate of non-responsive and evasive answers to the first round of discovery propounded by SGVGC in the prior litigation between Vulcan and SGVGC, only to agree, with basically no argument, to provide further responses to supplement the vast majority of disputed responses.

We note the foregoing to expressly advise Vulcan that, if Vulcan continues its practice of discovery evasiveness and delay, it may result in the postponement of mediation in this matter. SGVGC will not hesitate to move the Court to extend the mediation cutoff if the current discovery dispute is not resolved prior to our current mediation date of July 23, 2012.

Finally, before getting into the specifics of the disputed issues discussed below, one related issue must be raised. Though SGVGC cannot move to compel Vulcan to amend unqualified denials that appear untrue based on the evidence collected in the Federal action, be advised that SGVGC intends to seek cost-of-proof sanctions in the future regarding the multiple unfounded denials in the response at issue. *See Rosales v. Thermex-Thermatron, Inc.*, 67 Cal. App. 4th 187, 198 (1998) (holding that if a party who denies a request for admission lacks personal knowledge but had available sources of information and failed to make a reasonable investigation, the failure will justify an award of sanctions); *Barnett v. Penske Truck Leasing Co., L.P.*, 90 Cal. App. 4th 494, 497-499 (2001) (costs may be awarded when the requesting party proves a denial is false at trial or on a motion for summary judgment).

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 18:

Admit that at VULCAN had no contractual right to enter the PROPERTY to dump material on the PROPERTY between June 17, 1987 and May 19, 1992.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the basis that it seeks a legal conclusion. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase "dump material."

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis that it seeks a legal conclusion." Requests for Admission ("RFA") are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010.

Second, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous with respect to at least the phrase 'dump material.'" Even aside from the fact that Vulcan takes the words "dump material" out of context, the words are used in a common manner, and Vulcan is being patently evasive in failing to at least attempt a substantive response. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party

Ms. Elizabeth A. Culley
June 22, 2012
Page 3 of 154

permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what “dump material” means, Vulcan should have made a reasonable attempt to explain how Vulcan understood those words, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, Vulcan possesses the information required to provide a response to this RFA; i.e., legal counsel and the contract to be interpreted as required by the request at issue. Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 19:

Admit that VULCAN had placed approximately 600,000 tons of WASTE MATERIAL (“WASTE MATERIAL” refers to mined material for which there was no contemporaneous buyer, including base, overburden, mining tailings, rock dust, sand, “class two” mined material, or any combination thereof) on the PROPERTY as of December 14, 1994.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the basis that it seeks a legal conclusion. Vulcan further objects on the grounds that the definition of WASTE MATERIAL is vague and ambiguous.

Subject to and without waiving the foregoing objections, Vulcan responds as follows:

Vulcan lacks information to admit or deny the current request and, therefore, denies the request.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added). A perfect example of Vulcan’s failure to actually consider if their objections are legitimate is the use of the following objection: “Vulcan further objects to this request on the basis that it seeks a legal conclusion.” RFAs are *expressly* allowed to ask for legal conclusions, i.e., the “application of law to fact.” Civ. Proc. Code § 2033.010.

Second, Vulcan is plainly being disingenuous in stating “the definition of WASTE MATERIAL is vague and ambiguous.” “Mined material for which there was no contemporaneous buyer” is plain to the layperson, and Vulcan is in the mining business, so there is no doubt Vulcan understood what the defined term means. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what the term at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the term, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, Vulcan is incorrect in stating that it “lacks information to admit or deny the current request” See, e.g., VUL01660 (produced by Vulcan in the Federal action).¹ Further, Vulcan failed to state, as required under discovery law, “that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter.” Civ. Proc. Code § 2033.220. If Vulcan fails to remedy this inappropriate denial, it will be liable for proof-of-cost sanctions. See *Rosales v. Thermex-Thermatron, Inc.*, 67 Cal. App. 4th 187, 198 (1998) (holding that if a party who denies a request for admission lacks personal knowledge but had available sources of information and failed to make a reasonable investigation, the failure will justify an award of sanctions); *Barnett v. Penske Truck Leasing Co., L.P.*, 90 Cal. App. 4th 494, 497–499 (2001) (costs may be awarded when the requesting party proves a denial is false at trial or on a motion for summary judgment). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 20:

Admit that VULCAN placed at least 10,000 tons of WASTE MATERIAL on the PROPERTY before June 13, 1992.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects on the grounds that the definition of WASTE MATERIAL is vague and ambiguous.

Subject to and without waiving the foregoing objections, Vulcan responds as follows:

¹ Some documents produced by Vulcan in the Federal action have the prefix “VU1”, which appears to be a typographical error. “VU1” and “VUL” are used interchangeably herein.

Vulcan lacks information to admit or deny the current request and, therefore, denies the request.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan is plainly being disingenuous in stating "the definition of WASTE MATERIAL is vague and ambiguous." "Mined material for which there was no contemporaneous buyer" is plain to the layperson, and Vulcan is in the mining business, so there is no doubt Vulcan understood what the defined term means. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what the term at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the term, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, Vulcan is incorrect in stating that it "lacks information to admit or deny the current request . . ." See, e.g., VUL00853 (produced by Vulcan in the Federal action). Further, Vulcan failed to state, as required under discovery law, "that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter." Civ. Proc. Code § 2033.220. If Vulcan fails to remedy this inappropriate denial, it will be liable for cost-of-proof sanctions. See *Rosales v. Thermex-Thermatron, Inc.*, 67 Cal. App. 4th 187, 198 (1998) (holding that if a party who denies a request for admission lacks personal knowledge but had available sources of information and failed to make a reasonable investigation, the failure will justify an award of sanctions); *Barnett v. Penske Truck Leasing Co., L.P.*, 90 Cal. App. 4th 494, 497-499 (2001) (costs may be awarded when the requesting party proves a denial is false at trial or on a motion for summary judgment). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 21:

Admit that a "stockpile" area existed at the PROPERTY before May 20, 1992.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to

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this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase "stockpile area."

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan is plainly being disingenuous in stating the term "stockpile area" is vague and ambiguous." Vulcan itself referred to the area at issue as the "stockpile area." See VUL00816; 1992 Lease at page 20, paragraph 35. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what the term at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the term, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, Vulcan possesses the information required to provide a response to this RFA. See, e.g., VUL00816 (produced by Vulcan in the Federal action). Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 22:

Admit that in December of 1994, VULCAN was generating WASTE MATERIAL at the rate of about 20,000 tons per month.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, vague, unduly burdensome and harassing. Vulcan further objects on the grounds that the definition of WASTE MATERIAL is vague and ambiguous.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan is plainly being disingenuous in stating "the definition of WASTE MATERIAL is vague and ambiguous." "Mined material for which there was no contemporaneous buyer" is plain to the layperson, and Vulcan is in the mining business, so there is no doubt Vulcan understood what the defined term means. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what the term at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the term, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, Vulcan possesses the information required to provide a response to this RFA. *See, e.g.*, VUL01660-661 (produced by Vulcan in the Federal action). Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 23:

Admit that Preston Cowan was a heavy equipment operator at the AZUSA ROCK QUARRY ("AZUSA ROCK QUARRY" refers to the quarry and related property owned by VULCAN that abuts the PROPERTY) between 1985 and 1995.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing.

Subject to and without waiving the foregoing objections, Vulcan responds as follows:

Solely to the extent that Mr. Cowan admitted to same in his deposition in the federal litigation among these same parties that immediately preceded the instant state court litigation, admitted.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's response is patently evasive. There is no authority that allows a party responding to an RFA to limit its response to a particular piece of evidence. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In summary, SGVGC demands a further response be provided regarding the request at issue.

Also, it should be noted that the response given is a qualified admission. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for *all* RFA responses that are not "unqualified admissions."

REQUEST FOR ADMISSION NO. 24:

Admit that Preston Cowan was a supervisor of employees who hauled WASTE MATERIAL from the AZUSA ROCK QUARRY to the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects on the grounds that the definition of WASTE MATERIAL is vague and ambiguous.

Subject to and without waiving the foregoing objections, Vulcan responds as follows:

Solely to the extent that Mr. Cowan admitted to same in his deposition in the federal litigation ("Federal Litigation") among these same parties that immediately preceded the instant state court litigation, admitted.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan is plainly being disingenuous in stating “the definition of WASTE MATERIAL is vague and ambiguous.” “Mined material for which there was no contemporaneous buyer” is plain to the layperson, and Vulcan is in the mining business, so there is no doubt Vulcan understood what the defined term means. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what the term at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the term, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, Vulcan’s response is patently evasive. There is no authority that allows a party responding to an RFA to limit a response to a particular piece of evidence. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

Also, it should be noted that the response given is a qualified admission. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for all RFA responses that are not “unqualified admissions.”

REQUEST FOR ADMISSION NO. 25:

Admit that after VULCAN had begun the WASTE PILE (“WASTE PILE” refers to the pile of WASTE MATERIAL placed by VULCAN on the PROPERTY), Rick Phillips made a comment to Preston Cowan expressing the idea that placing WASTE MATERIAL on the PROPERTY could result in future problems regarding the lead bullets or fragments thereof being buried.

RESPONSE TO REQUEST FOR ADMISSION NO. 25:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that the definition of WASTE PILE is vague and ambiguous.

Subject to and without waiving the foregoing objections, Vulcan responds as follows:

Vulcan has no independent means of admitting or denying the current Request other than from

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discovery produced in the Federal Litigation, which is equally accessible to the propounding party. On this basis, Vulcan denies the request.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan is plainly being disingenuous in stating the term "WASTE PILE" is vague and ambiguous." Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. In any event, even if Vulcan was unsure of what the term at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the term, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. Indeed, SGVGC cannot determine if Vulcan is trying to state a denial, or if Vulcan is stating an inability to admit or deny, to be treated as a denial. If it is the later, it fails to meet the requirement of Civil Procedure Code section 2033.220(c) that a reasonable inquiry was made.

Regardless, the response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). Vulcan's obfuscation is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

Also, it should be noted that the response given is a denial of some sort. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for all RFA responses that are not "unqualified admissions."

REQUEST FOR ADMISSION NO. 26:

Admit that VULCAN is not aware of any person who was present at any conversation between Preston Cowan and Rick Phillips other than Preston Cowan and Rick Phillips.

RESPONSE TO REQUEST FOR ADMISSION NO. 26:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States

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and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing in that it refers to every conversation between Prestan Cowan and Rick Phillips. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least time.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan is incorrect in stating this request "refers to every conversation between Preston Cowan and Rick Phillips[;]" it only refers to conversations Vulcan is aware of where a third person was present. Either Vulcan has an awareness or it does not, thus in no way could this request be considered to present an unacceptable burden. And in any event, even if Vulcan thought the question was too broad, Vulcan still had a duty to respond to the part of the request it decided was not overbroad. Civ. Proc. Code § 2033.220(b)(1)-(2). "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 27:

Admit that Tom Sheedy was the general manager of the AZUSA ROCK QUARRY from 1983 to 2000.

RESPONSE TO REQUEST FOR ADMISSION NO. 27:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

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REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. Indeed, SGVGC cannot determine if Vulcan is trying to state a denial (though no denial is expressly stated), or if Vulcan is stating an inability to admit or deny. If it is the latter, it fails to meet the requirement of Civil Procedure Code section 2033.220(c) that a reasonable inquiry was made.

Regardless, the response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). Vulcan's obfuscation is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

Also, it should be noted that the response given is not an unqualified admission. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for all RFA responses that are not "unqualified admissions."

REQUEST FOR ADMISSION NO. 28:

Admit that Preston Cowan told Tom Sheedy that placing WASTE MATERIAL on the PROPERTY was resulting in lead being buried beneath the WASTE MATERIAL.

RESPONSE TO REQUEST FOR ADMISSION NO. 28:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of WASTE MATERIAL and the phrase "was resulting in." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan is plainly being disingenuous in stating “the definition of WASTE MATERIAL and the phrase “was resulting in” are vague and ambiguous. As to WASTE MATERIAL, “[m]ined material for which there was no contemporaneous buyer” is plain to the layperson, and Vulcan is in the mining business, so there is no doubt Vulcan understood what the defined term means. The phrase “was resulting in” is also clearly within common knowledge. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what the terms at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the terms, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. Indeed, SGVGC cannot determine if Vulcan is trying to state a denial (though no denial is expressly stated), or if Vulcan is stating an inability to admit or deny. If it is the later, it fails to meet the requirement of Civil Procedure Code section 2033.220(c) that a reasonable inquiry was made.

Regardless, the response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). Vulcan’s obfuscation is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

Also, it should be noted that the response given is not an unqualified admission. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for all RFA responses that are not “unqualified admissions.”

REQUEST FOR ADMISSION NO. 29:

Admit that Tom Sheedy was aware of the possibility that WASTE MATERIAL was being placed on top of a surface where lead bullets were present.

RESPONSE TO REQUEST FOR ADMISSION NO. 29:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the

extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of WASTE MATERIAL. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan is plainly being disingenuous in stating "WASTE MATERIAL" "is vague and ambiguous." "Mined material for which there was no contemporaneous buyer" is plain to the layperson, and Vulcan is in the mining business, so there is no doubt Vulcan understood what the defined term means. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what the term at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the term, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. Indeed, SGVGC cannot determine if Vulcan is trying to state a denial (though no denial is expressly stated), or if Vulcan is stating an inability to admit or deny. If it is the later, it fails to meet the requirement of Civil Procedure Code section 2033.220(c) that a reasonable inquiry was made.

Regardless, the response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). Vulcan's obfuscation is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

Also, it should be noted that the response given is not an unqualified admission. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for all RFA responses that are not "unqualified admissions."

REQUEST FOR ADMISSION NO. 31:

Admit that, immediately prior to the commencement of the creation of the WASTE PILE, VULCAN was aware of the possibility that the placement of the WASTE PILE at the PROPERTY might result in the burial of lead bullets.

RESPONSE TO REQUEST FOR ADMISSION NO. 31:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request as it calls for speculation and remains vague and ambiguous with respect to at least the definition of WASTE PILE and the phrase "might result in."

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan is plainly being disingenuous in stating "the definition of WASTE MATERIAL and the phrase "was resulting in" are vague and ambiguous. As to WASTE MATERIAL, "[m]ined material for which there was no contemporaneous buyer" is plain to the layperson, and Vulcan is in the mining business, so there is no doubt Vulcan understood what the defined term means. The phrase "might result in" is also clearly within common knowledge. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what the terms at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the terms, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. Indeed, SGVGC cannot determine if Vulcan is trying to state a denial (though no denial is expressly stated), or if Vulcan is stating an inability to admit or deny. If it is the later, it fails to meet the requirement of Civil Procedure Code section 2033.220(c) that a reasonable inquiry was made.

Regardless, the response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). Vulcan’s obfuscation is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2033.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

Also, it should be noted that the response given is not an unqualified admission. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for all RFA responses that are not “unqualified admissions.”

REQUEST FOR ADMISSION NO. 32:

Admit that on several occasions between 1989 and 2000, Preston Cowan oversaw the use of heavy equipment to relocate material from the WASTE PILE that had flowed onto the range floor at the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 32:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of WASTE PILE, the term "material" and the phrase "flowed onto the range floor." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “WASTE PILE,” “material,” and “flowed onto the range floor.” As to WASTE PILE, Vulcan itself referred to the pile at issue as the “waste pile.” See VUL00816. And, within the context of this request, the terms “material” and “flowed onto the range floor” are understandable to anyone with even a rudimentary understanding of the site where the WASTE PILE is located, so there is no doubt Vulcan understood what the defined term means. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what any of the phrases listed above meant, Vulcan should have made a reasonable attempt to explain

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how Vulcan understood those phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. Indeed, SGVGC cannot determine if Vulcan is trying to state a denial (though no denial is expressly stated), or if Vulcan is stating an inability to admit or deny. If it is the later, it fails to meet the requirement of Civil Procedure Code section 2033.220(c) that a reasonable inquiry was made.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2033.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 33:

Admit that on several occasions between 1989 and 2000, Preston Cowan used heavy equipment to relocate material from the WASTE PILE that had flowed onto the range floor at the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 33:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of WASTE PILE, the term "material" and the phrase "flowed onto the range floor." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “WASTE PILE,” “material,” and “flowed onto the range floor.” As to WASTE PILE, Vulcan itself referred to the pile at issue as the “waste pile.” See VUL00816. And, within the context of this

request, the terms “material” and “flowed onto the range floor” are understandable to anyone with even a rudimentary understanding of the site where the WASTE PILE is located, so there is no doubt Vulcan understood what the defined terms mean. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what any of the phrases listed above meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. Indeed, SGVGC cannot determine if Vulcan is trying to state a denial (though no denial is expressly stated), or if Vulcan is stating an inability to admit or deny. If it is the later, it fails to meet the requirement of Civil Procedure Code section 2033.220(c) that a reasonable inquiry was made.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 34:

Admit that VULCAN relocated material from the range floor to the top of the WASTE PILE.

RESPONSE TO REQUEST FOR ADMISSION NO. 34:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of WASTE PILE, the term "material" and the phrase "range floor." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a

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request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE," "material," and "range floor." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. And, within the context of this request, the terms "material" and "flowed onto the range floor" are understandable to anyone with even a rudimentary understanding of the site where the WASTE PILE is located, so there is no doubt Vulcan understood what the defined terms mean. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what any of the phrases listed above meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. Indeed, SGVGC cannot determine if Vulcan is trying to state a denial (though no denial is expressly stated), or if Vulcan is stating an inability to admit or deny. If it is the later, it fails to meet the requirement of Civil Procedure Code section 2033.220(c) that a reasonable inquiry was made.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 35:

Admit that a VULCAN employee used a truck of some type to relocate WASTE MATERIAL from an area at the base of the WASTE PILE to the top of the WASTE PILE.

RESPONSE TO REQUEST FOR ADMISSION NO. 35:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definitions of "WASTE MATERIAL" and "WASTE PILE." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is

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equally accessible to the propounding party.

Subject to and without waiving the foregoing objections, Vulcan responds as follows:

Vulcan lacks sufficient information to admit or deny the current Request and, therefore, denies the request.

Reason Why Further Response Should Be Provided:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE" and "WASTE MATERIAL." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. As to WASTE MATERIAL, the term is defined as "[m]ined material for which there was no contemporaneous buyer[.]" a definition that is plain to the layperson. Inasmuch as Vulcan is in the mining business, there is no doubt Vulcan understood what the defined term means. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what any of the phrases listed above meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. Indeed, it seems Vulcan failed to meet the requirement of Civil Procedure Code section 2033.220(c) that a reasonable inquiry was made.

Also, it should be noted that the response given is a denial of some sort. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for all RFA responses that are not "unqualified admissions."

REQUEST FOR ADMISSION NO. 36:

Admit that material relocated from the base of the WASTE PILE to the top of the WASTE PILE contained whatever was in the WASTE PILE that had slid to the range floor.

RESPONSE TO REQUEST FOR ADMISSION NO. 36:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it

exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it calls for speculation, and remains overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE," the term "material" and the phrase "slid to the range floor."

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE," "material," and "slid to the range floor." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. And, within the context of this request, the terms "material" and "slid to the range floor" are understandable to anyone with even a rudimentary understanding of the site where the WASTE PILE is located, so there is no doubt Vulcan understood what the defined terms mean. The response above is clearly not "as complete and

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straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what any of the phrases listed above meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2033.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 37:

Admit that bullets and WASTE PILE material slid from the WASTE PILE onto a flat area immediately south of the WASTE PILE.

RESPONSE TO REQUEST FOR ADMISSION NO. 37:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it calls for speculation, and seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE" the term "material" and the phrase "a flat area immediately south of."

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “WASTE PILE,” “material,” and “a flat area immediately south of.” As to WASTE PILE, Vulcan itself referred to the pile at issue as the “waste pile.” *See* VUL00816. And, within the context of this request, the terms “material” and “a flat area immediately south of” are understandable to anyone with even a rudimentary understanding of the site where the WASTE PILE is located, so there is no doubt Vulcan understood what the defined terms mean. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what any of the phrases listed above meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2033.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 38:

Admit that Tom Jenkins was a VULCAN project manager from 1984 to 1997.

RESPONSE TO REQUEST FOR ADMISSION NO. 38:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States

and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase "project manager." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" the term "project manager." Vulcan admitted Tom Jenkins was a project manager in its Federal action briefs. See Docket Document No. 69 (from the Federal action). The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what any of the phrases listed above meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

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Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 39:

Admit that Tom Davis was the supervisor of Tom Jenkins from 1984 to 1997.

RESPONSE TO REQUEST FOR ADMISSION NO. 39:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2033.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 40:

Admit that Tom Jenkins delivered a DRAFT LEASE (“DRAFT LEASE” refers to a draft of the May 20, 1992 LEASE between THE CLUB and VULCAN) to THE CLUB on February 10, 1992.

RESPONSE TO REQUEST FOR ADMISSION NO. 40:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. Indeed, SGVGC cannot determine if Vulcan is trying to state a denial (though no denial is expressly stated), or if Vulcan is stating an inability to admit or deny. If it is the later, it fails to meet the requirement of Civil Procedure Code section 2033.220(c) that a reasonable inquiry was made.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 41:

Admit that the document attached as Exhibit A is a true and correct copy of the DRAFT LEASE.

RESPONSE TO REQUEST FOR ADMISSION NO. 41:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work

product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. There is no limitation on the number of RFAs that can be propounded to establish the genuineness of documents. Civ. Proc. Code § 2033.030(a). Further, Vulcan has no basis to challenge SGVGC's RFAs re: genuineness as unduly burdensome; only three such RFAs were propounded.

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 42:

Admit that the DRAFT LEASE contained a provision ("DRAFT LEASE PROVISION") (part of ¶ 9 therein, titled "Use of Premises") providing the following:

Landlord shall have the right to establish reasonable rules and regulations regarding the Tenants's permitted use of the Premises, including without limitation specifications regarding the type of shot used, and Tenant agrees to observe all such reasonable rules and regulations. Tenant shall not cause or permit any "Hazardous Materials" (as hereinafter defined) to be brought upon, kept, or used in or about the Premises by Tenant, its agents, employees, contractors, or invitees. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local authority, the State of California, or the United States Government.

RESPONSE TO REQUEST FOR ADMISSION NO. 42:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. The current Request also calls for a legal conclusion. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party. On this basis, Vulcan denies the request. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added). A perfect example of Vulcan’s failure to actually consider if their objections are legitimate is the use of the following objection: “The current Request also calls for a legal conclusion.” RFAs are *expressly* allowed to ask for legal conclusions, i.e., the “application of law to fact.” Civ. Proc. Code § 2033.010. And in any event, asking if a document contains a certain passage does not call for a legal conclusion, it calls for factual confirmation.

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

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Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

Also, it should be noted that the response given is a denial of some sort. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for all RFA responses that are not “unqualified admissions.”

REQUEST FOR ADMISSION NO. 43:

Admit that THE CLUB provided comments to the DRAFT LEASE on February 24, 1992.

RESPONSE TO REQUEST FOR ADMISSION NO. 43:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 44:

Admit that THE CLUB's provided VULCAN with written comments to the DRAFT LEASE requesting that the DRAFT LEASE to be revised by deletion of the first sentence of the DRAFT LEASE PROVISION.

RESPONSE TO REQUEST FOR ADMISSION NO. 44:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 45:

Admit that THE CLUB provided VULCAN with written comments to the DRAFT LEASE requesting a proposed lease include the language "except ammunition, propellant powder, normal gun cleaning solvents, diesel fuel in safety cans, and fuel in vehicle fuel tanks" be added to the end of the DRAFT LEASE PROVISION.

RESPONSE TO REQUEST FOR ADMISSION NO. 45:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States

and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

Also, it should be noted that the response given is a denial of some sort. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for all RFA responses that are not "unqualified admissions."

REQUEST FOR ADMISSION NO. 46:

Admit that on March 5, 1992, VULCAN provided a written communication to THE CLUB regarding the DRAFT LEASE.

RESPONSE TO REQUEST FOR ADMISSION NO. 46:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1

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(The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

Also, it should be noted that the response given is a denial of some sort. Thus, Vulcan failed to respond to Form Interrogatory 17.1 as to this response. 17.1 responses are required for all RFA responses that are not “unqualified admissions.”

REQUEST FOR ADMISSION NO. 47:

Admit that the document attached as Exhibit B is a true and correct copy of THE CLUB's March 5, 1992 comments to the DRAFT LEASE as received by VULCAN.

RESPONSE TO REQUEST FOR ADMISSION NO. 47:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. There is no limitation on the number of RFAs that can be propounded to establish the genuineness of documents. Civ. Proc. Code § 2033.030(a). Further, Vulcan has no basis to challenge SGVGC's RFAs re: genuineness as unduly burdensome; only three such RFAs were propounded.

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Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 48:

Admit that VULCAN's March 5, 1992 response to THE CLUB's written comments to the DRAFT LEASE does not mention SPENT AMMUNITION or the cleanup thereof.

RESPONSE TO REQUEST FOR ADMISSION NO. 48:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP §

2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 49:

Admit that VULCAN's March 5, 1992 response to THE CLUB's written comments to the DRAFT LEASE does not mention fired lead bullets or the cleanup thereof.

RESPONSE TO REQUEST FOR ADMISSION NO. 49:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing as among other points, the document- to the extent it is authenticated- is self-explanatory. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, there is no recognized objection that allows a party to avoid answering an RFA regarding the contents of a document because such contents are "self-explanatory." Further, the fact that Vulcan raises this objection at all tends to suggest that there *is* a dispute as to how the document at issue should be interpreted, meaning it is thus *not* self-explanatory.

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 50:

Admit that the document attached as Exhibit C is a true and correct copy of the FINAL LEASE ("FINAL LEASE" refers to the lease between VULCAN and THE CLUB dated May 20, 1992).

RESPONSE TO REQUEST FOR ADMISSION NO. 50:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States

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and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing as among other points, the document- to the extent it is authenticated- is self-explanatory. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. There is no limitation on the number of RFAs that can be propounded to establish the genuineness of documents. Civ. Proc. Code § 2033.030(a). Further, Vulcan has no basis to challenge SGVGC's RFAs re: genuineness as unduly burdensome; only three such RFAs were propounded.

Third, there is no recognized objection that allows a party to avoid answering an RFA regarding the contents of a document because such contents are "self-explanatory." Further, the fact that Vulcan raises this objection at all tends to suggest that there *is* a dispute as to how the document at issue should be interpreted, meaning it is thus *not* self-explanatory.

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 51:

Admit that the FINAL LEASE does not contain the text referred to herein as the DRAFT LEASE PROVISION.

RESPONSE TO REQUEST FOR ADMISSION NO. 51:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil

Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase "does not contain the text referred to herein as." Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing as among other points, the document- to the extent it is authenticated- is self-explanatory. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous with respect to at least the phrase "does not contain the text referred to herein as."" The phrase at issue is common English, and is a simple way of denoting a section of quoted text that had been give a name in an earlier request ("DRAFT LEASE PROVISION"). Vulcan is being patently evasive in failing to at least attempt a substantive response. The response above is clearly not "as complete and

straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "does not contain the text referred to herein as" means, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, there is no recognized objection that allows a party to avoid answering an RFA regarding the contents of a document because such contents are “self-explanatory.” Further, the fact that Vulcan raises this objection at all tends to suggest that there *is* a dispute as to how the document at issue should be interpreted, meaning it is thus *not* self-explanatory.

Fifth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 52:

Admit that, prior to May 20, 1992, VULCAN never indicated to THE CLUB that the DRAFT LEASE PROVISION was intended to address SPENT AMMUNITION.

RESPONSE TO REQUEST FOR ADMISSION NO. 52:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrases "never indicated" and "was intended to address." Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing as among other points, the document- to the extent it is authenticated- is self-explanatory. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding the phrases "'never indicated" and "was intended to address." The phrases at issue are common English. Vulcan is being patently evasive in failing to at least attempt a substantive response. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of how to understand either of the two phrases identified, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, there is no recognized objection that allows a party to avoid answering an RFA regarding the contents of a document because such contents are "self-explanatory." Further, the fact that Vulcan raises this objection at all tends to suggest that there *is* a dispute as to how the document at issue should be interpreted, meaning it is thus *not* self-explanatory.

Fifth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation,

which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 53:

Admit that, prior to May 20, 1992, VULCAN never indicated to THE CLUB that the DRAFT LEASE PROVISION was intended to address lead bullets that had been fired at the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 53:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrases "never indicated" and "was intended to address." Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing as among other points, the document- to the extent it is authenticated- is self-explanatory. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding the phrases “never indicated” and “was intended to address.” The phrases at issue are common English. Vulcan is being patently evasive in failing to at least attempt a substantive response. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of how to understand either of the two phrases identified, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, there is no recognized objection that allows a party to avoid answering an RFA regarding the contents of a document because such contents are “self-explanatory.” Further, the fact that Vulcan raises this objection at all tends to suggest that there *is* a dispute as to how the document at issue should be interpreted, meaning it is thus *not* self-explanatory.

Fifth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 54:

Admit that, prior to 2005, VULCAN never indicated to THE CLUB that the DRAFT LEASE PROVISION was intended to address SPENT AMMUNITION.

RESPONSE TO REQUEST FOR ADMISSION NO. 54:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States

and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrases "never indicated" and "was intended to address." Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing as among other points, the document- to the extent it is authenticated- is self-explanatory. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding the phrases "'never indicated" and "was intended to address." The phrases at issue are common English. Vulcan is being patently evasive in failing to at least attempt a substantive response. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of how to understand either of the two phrases identified, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B.,

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California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, there is no recognized objection that allows a party to avoid answering an RFA regarding the contents of a document because such contents are “self-explanatory.” Further, the fact that Vulcan raises this objection at all tends to suggest that there *is* a dispute as to how the document at issue should be interpreted, meaning it is thus *not* self-explanatory.

Fifth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 55:

Admit that the value the PROPERTY is less than \$1.5 million.

RESPONSE TO REQUEST FOR ADMISSION NO. 55:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least time.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” as to time: the request is stated as to a *present* value, clearly expressed by the use of the word “is.” In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 56:

Admit that the FINAL LEASE did not incorporate by reference any prior lease between VULCAN and THE CLUB.

RESPONSE TO REQUEST FOR ADMISSION NO. 56:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion, is self-explanatory, and seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing as among other points, the document- to the extent it is authenticated- is self-explanatory. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion." RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, there is no recognized objection that allows a party to avoid answering an RFA regarding the contents of a document because such contents are "self-explanatory." Further, the fact that Vulcan raises this objection at all tends to suggest that there *is* a dispute as to how the document at issue should be interpreted, meaning it is thus *not* self-explanatory.

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 57:

Admit that the FINAL LEASE included what is commonly referred to as an "integration clause."

RESPONSE TO REQUEST FOR ADMISSION NO. 57:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion, the subject document is self-explanatory, and the request seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion[.]" RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, there is no recognized objection that allows a party to avoid answering an RFA regarding the contents of a document because such contents are “self-explanatory.” Further, the fact that Vulcan raises this objection at all tends to suggest that there *is* a dispute as to how the document at issue should be interpreted, meaning it is thus *not* self-explanatory. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 58:

Admit that VULCAN created the WASTE PILE on the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 58:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of “WASTE PILE.” Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “WASTE PILE.” As to WASTE PILE, Vulcan itself referred to the pile at issue as the “waste pile.” See VUL00816. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what “WASTE PILE” meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 59:

Admit that VULCAN started creating the WASTE PILE before May 20, 1992.

RESPONSE TO REQUEST FOR ADMISSION NO. 59:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects

to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "WASTE PILE" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally

obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2033.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 60:

Admit that VULCAN did not seek permission from THE CLUB to create the WASTE PILE.

RESPONSE TO REQUEST FOR ADMISSION NO. 60:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE." Vulcan further objects to this request on the basis that it seeks a legal conclusion. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis that it seeks a legal conclusion." RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010. And regardless, this RFA does not seek a legal conclusion.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more

than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “WASTE PILE.” As to WASTE PILE, Vulcan itself referred to the pile at issue as the “waste pile.” See VUL00816. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what “WASTE PILE” meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 61:

Admit that before the creation of the WASTE PILE, VULCAN conducted internal meetings at which the creation of the WASTE PILE was discussed.

RESPONSE TO REQUEST FOR ADMISSION NO. 61:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the

extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "WASTE PILE" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B.,

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California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 62:

Admit that, prior to the creation of the WASTE PILE, no employee of VULCAN' s reviewed VULCAN's then-current lease with THE CLUB to determine if VULCAN had the contractual right to place the WASTE PILE on the PROPERTY while leased by THE CLUB.

RESPONSE TO REQUEST FOR ADMISSION NO. 62:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added). A perfect example of Vulcan’s failure to actually consider if their objections are legitimate is the use of the following objection: “Vulcan further objects to this request on the basis that it seeks a legal conclusion.” RFAs are *expressly* allowed to ask for legal conclusions, i.e., the “application of law to fact.” Civ. Proc. Code § 2033.010. And regardless, this RFA request confirmation regarding a factual occurrence, it simply does not ask for a legal conclusion.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "WASTE PILE" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 63:

Admit that VULCAN is the successor to an entity known as "Crystal Partnership."

RESPONSE TO REQUEST FOR ADMISSION NO. 63:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the basis that it seeks a legal conclusion. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: Vulcan further objects to this request on the basis that it seeks a legal conclusion" RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

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Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 64:

Admit that VULCAN is the successor to an entity known as "Krist Construction."

RESPONSE TO REQUEST FOR ADMISSION NO. 64:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the basis that it seeks a legal conclusion. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added). A perfect example of Vulcan’s failure to actually consider if their objections are legitimate is the use of the following objection: “Vulcan further objects to this request on the basis that it seeks a legal conclusion.” RFAs are *expressly* allowed to ask for legal conclusions, i.e., the “application of law to fact.” Civ. Proc. Code § 2033.010.

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the

declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 65:

Admit that VULCAN is the successor to an entity known as "Azusa Rock, Inc."

RESPONSE TO REQUEST FOR ADMISSION NO. 65:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the basis that it seeks a legal conclusion. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis that it seeks a legal conclusion." RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 66:

Admit that VULCAN cannot identify a document indicating that VULCAN reviewed a lease with THE CLUB for the purpose of determining VULCAN's rights regarding the creation of the WASTE PILE.

RESPONSE TO REQUEST FOR ADMISSION NO. 66:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE," and the phrase "reviewed a lease." Vulcan further objects to this request on the basis that it seeks a legal conclusion. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis that it seeks a legal conclusion." RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010. And in any event, the RFA at issue seeks confirmation of a factual occurrence, and does not seek a legal conclusion.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds

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for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “WASTE PILE” and “reviewed a lease.” As to WASTE PILE, Vulcan itself referred to the pile at issue as the “waste pile.” See VUL00816. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). And “reviewed a lease” is common English. In any event, even if Vulcan was unsure of what “WASTE PILE” or “reviewed a lease” meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 67:

Admit that Herb Bock has no recollection as to whether the WASTE PILE was transported onto the PROPERTY after May 20, 1992.

RESPONSE TO REQUEST FOR ADMISSION NO. 67:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing as, among other points, Vulcan has no information or control related to the recollection of Mr. Bock, a former Gun Club executive. Vulcan further objects to this request on the grounds that it is vague and ambiguous with

respect to at least the definition of "WASTE PILE." Vulcan further objects to this request on the basis that it seeks a legal conclusion. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis that it seeks a legal conclusion." RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010. And in any event, the RFA at issue seeks confirmation of a factual occurrence, and does not seek a legal conclusion.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE" and "reviewed a lease." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). And "reviewed a lease" is common English. In any event, even if Vulcan was unsure of what "WASTE PILE" or "reviewed a lease" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrases, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California

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Civil Discovery Practice, Section 8.54 (C.E.B.1975).” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, Vulcan is being untruthful when stating it “has no information or control related to the recollection of Mr. Bock, a former Gun Club executive.” Vulcan took Mr. Bock’s deposition and this issue is expressly discussed at page 61 of the transcript of Mr. Bock’s deposition.

Fifth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 68:

Admit that VULCAN is not aware of any person affiliated with THE CLUB who is more knowledgeable concerning the creation of the WASTE PILE than Rick Phillips.

RESPONSE TO REQUEST FOR ADMISSION NO. 68:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. The current Request also calls for speculation. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly incorrect in alleging this request calls for speculation. This request deals with information that is within Vulcan's awareness. Either Vulcan is aware of a person it believes fits within the description given, or it is not. Further, even if this question required some level of opinion, that is expressly permissible. Civ. Proc. Code § 2033.010.

Fourth, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "WASTE PILE" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fifth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 69:

Admit that the majority of the WASTE PILE was placed between 1988 and 2005.

RESPONSE TO REQUEST FOR ADMISSION NO. 69:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

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Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “WASTE PILE.” As to WASTE PILE, Vulcan itself referred to the pile at issue as the “waste pile.” See VUL00816. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what “WASTE PILE” meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 70:

Admit that the WASTE PILE existed as of 1994.

RESPONSE TO REQUEST FOR ADMISSION NO. 70:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of “WASTE PILE.” Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "WASTE PILE" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

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REQUEST FOR ADMISSION NO. 71:

Admit that the placement of rock dust at the PROPERTY to prevent ricochets did not occur in the area where the WASTE PILE was dumped.

RESPONSE TO REQUEST FOR ADMISSION NO. 71:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE," and the phrases "placement of rock dust" and "to prevent ricochets." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis that it seeks a legal conclusion." RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010. And regardless, this RFA request confirmation regarding a factual occurrence, it simply does not ask for a legal conclusion.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “WASTE PILE,” “placement of rock dust,” and “to prevent ricochets.” As to WASTE PILE, Vulcan itself referred to the pile at issue as the “waste pile.” See VUL00816. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). As to “placement of rock dust” and “to prevent ricochets,” Vulcan’s briefs in the Federal action show Vulcan plainly knows what these phrases, and the component words, mean. See Docket Document 69 (filed in the Federal action). In any event, even if Vulcan was unsure of what “WASTE PILE” meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 72:

Admit that the primary purpose of the creation of the WASTE PILE was to store mined material that could not be sold.

RESPONSE TO REQUEST FOR ADMISSION NO. 72:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States

and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE," and the phrase "primary purpose of the creation." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis that it seeks a legal conclusion." RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010. And regardless, this RFA request confirmation regarding a factual occurrence, it simply does not ask for a legal conclusion.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE" and "'primary purpose of the creation.'" As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). And as to "'primary purpose of the

creation,” the phrase uses common English and has an obvious meaning. In any event, even if Vulcan was unsure of what phrases at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood those phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 73:

Admit that John Armato had no role in negotiating any of the leases between VULCAN and THE CLUB.

RESPONSE TO REQUEST FOR ADMISSION NO. 73:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase “no role in negotiating.” Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and

2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous with respect to at least the phrase “no role in negotiating.” The phrase at issue uses common English words in a common manner, and Vulcan is being patently evasive in failing to at least attempt a substantive response. A quick look to the Merriam-Webster Dictionary online (Merriam-Webster.com) provides the following definition for “negotiating”: “to confer with another so as to arrive at the settlement of some matter[.]” Clearly, the request is aimed at confirming whether Vulcan intends to contend that it conferred with John Armato regarding the leasing of property occupied by SGVGC. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of how to interpret the phrase at issue, Vulcan should have made a reasonable attempt to explain how Vulcan understood those words, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 74:

Admit VULCAN cannot identify any document indicating John Armato participated in the negotiation of a leases between VULCAN and THE CLUB.

RESPONSE TO REQUEST FOR ADMISSION NO. 74:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase "no role in negotiating." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous with respect to at least the phrase “no role in negotiating.” Initially, it has to be noted that this particular request does not use the phrase “no role in negotiating[.]” it uses the phrase “participated in the negotiation. The phrase at issue uses common English words in a common manner, and Vulcan is being patently evasive in failing to at least attempt a substantive response. A quick look to the Merriam-Webster Dictionary online (Merriam-Webster.com) provides the following definition for “negotiating”: “to confer with another so as to arrive at the settlement of some matter[.]” Clearly, the request is aimed at confirming whether Vulcan has any documents to support its apparent contention that it conferred with John Armato regarding the leasing of property occupied by SGVGC. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of how to interpret the phrase at issue, Vulcan should have made a reasonable attempt to explain how Vulcan understood those words, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 75:

Admit that Brian Ferris created the DRAFT LEASE.

RESPONSE TO REQUEST FOR ADMISSION NO. 75:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects

to this request on the grounds that it is vague and ambiguous with respect to at least the term "created." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "created." Not only is the term "created" a common English word used in a common way, Vulcan did not object to that word the other times it was used in an RFA in the current set. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "created" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that term, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). Brian Ferris is still an employee of Vulcan, and he verified Vulcan's responses. There is no good faith justification for this request to have gone without a true response. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 76:

Admit that the term of the LEASE between VULCAN and THE CLUB expired on May 20, 2002.

RESPONSE TO REQUEST FOR ADMISSION NO. 76:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "LEASE," the term "material" and the phrase "slid to the range floor." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “LEASE.” Clearly, the reference to the LEASE is a reference to the FINAL LEASE, where the word FINAL was unintentionally omitted. The error surely did not confuse Vulcan, however, as the date stated in the request left no doubt as to what lease was being referred to. And in any event, even if Vulcan was unsure of what lease was at issue, Vulcan should have answered based on whatever lease is most reasonable, which would have no doubt been the FINAL Lease. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978). The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 77:

Admit that VULCAN internally discussed the presence of SPENT AMMUNITION at the PROPERTY during the negotiation of the FINAL LEASE.

RESPONSE TO REQUEST FOR ADMISSION NO. 77:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to

this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects on the grounds that this request is vague and ambiguous with respect to at least the phrases "presence of SPENT AMMUNITION" and "during the negotiation." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding the phrases "presence of SPENT AMMUNITION" and "during the negotiation." As to the former, it was the crux of the Federal Litigation. And regardless, the SPENT AMMUNITION definition provided by SGVGC in this set of RFAs is plain and clear, as is the term "during the negotiation." The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what these phrases meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the phrases, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783

(1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2033.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 78:

Admit that VULCAN internally discussed the presence of lead bullets at the PROPERTY during the negotiation of the FINAL LEASE.

RESPONSE TO REQUEST FOR ADMISSION NO. 78:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects on the grounds that this request is vague and ambiguous with respect to at least the phrases "presence of lead bullets" and "during the negotiation." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding the phrases “presence of lead bullets” and “during the negotiation.” These are clear phrases using common English words in a normal way. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what these phrases meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 79:

Admit that VULCAN never made any comment about SPENT AMMUNITION at the PROPERTY to THE CLUB's former attorney, Robert Carter.

RESPONSE TO REQUEST FOR ADMISSION NO. 79:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil

Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase "any comment." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding the phrase "any comment." This phrase uses common English words in a normal way. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what these phrases meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the phrases, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper

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solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).) *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 80:

Admit that VULCAN never made any comment about lead bullets present at the PROPERTY to THE CLUB's former attorney, Robert Carter.

RESPONSE TO REQUEST FOR ADMISSION NO. 80:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase “any comment.” Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the

declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding the phrase “any comment.” This phrase uses common English words in a normal way. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what these phrases meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 81:

Admit that, prior to May 20, 1992, a VULCAN employee recommended the “lead problem” at the PROPERTY be addressed in a future lease for the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 81:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure

§2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase "lead problem." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding the phrase "lead problem." Vulcan itself referred to the "lead problem." See VUL00816. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "lead problem" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the phrase, and answered accordingly. "Indeed,

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where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 82:

Admit that, prior to May 20, 1992, VULCAN had identified a potential need to remove lead bullets from the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 82:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 83:

Admit that, prior to May 20, 1992, VULCAN had expressly considered proposing a lease to THE CLUB for the PROPERTY that expressly required THE CLUB remove lead bullets from the PROPERTY at the end of THE CLUB's tenancy.

RESPONSE TO REQUEST FOR ADMISSION NO. 83:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase "expressly considered." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the

propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding the phrase "expressly considered." The phrase uses common English words in a common way. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "expressly considered" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the phrase, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be

provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 84:

Admit that, prior to May 20, 1992, VULCAN internally discussed whether an express reference to lead should be made in VULCAN's next lease with THE CLUB for the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 84:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

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Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue

REQUEST FOR ADMISSION NO. 85:

Admit that none of the leases or licenses in place between 1947 and 2006 between VULCAN and THE CLUB mentioned SPENT AMMUNITION.

RESPONSE TO REQUEST FOR ADMISSION NO. 85:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the basis that it is vague and ambiguous with respect to at least the term "mentioned." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “mentioned.” The word at issue is a common English word being used in a common way. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what “mentioned” meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that word, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 86:

Admit that none of the leases or licenses in place between 1947 and 2006 between VULCAN and THE CLUB mentioned lead present at the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 86:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the

extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the basis that it is vague and ambiguous with respect to at least the term "mentioned." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "mentioned." The word at issue is a common English word being used in a common way. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "mentioned" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that word, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 87:

Admit that between 1947 and 2006, VULCAN was aware that lead was being deposited on the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 87:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase “deposited on.” Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more

than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “deposited on.” The phrase at issue is a common English phrase being used in a common way. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what “deposited on” meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 88:

Admit that between 1947 and 2006, VULCAN believed that the CLUB made no attempt to clean up the effects of lead ammunition use.

RESPONSE TO REQUEST FOR ADMISSION NO. 88:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States

and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the term "believed." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "believed." The word at issue is a common English word being used in a common way. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "believed" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that word, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

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Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 89:

Admit that there were periods of time between January 1947 and November 2006 during which there was no lease in place between VULCAN and THE CLUB.

RESPONSE TO REQUEST FOR ADMISSION NO. 89:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is duplicative of other requests. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The

motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 90:

Admit that VULCAN cannot identify a written communication regarding lease negotiations with THE CLUB that indicated THE CLUB would be responsible for the cleanup of SPENT AMMUNITION at the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 90:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase "regarding lease negotiations." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "regarding lease negotiations." The phrase "regarding lease negotiations" uses common English words in a common manner. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "regarding lease negotiations" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 91:

Admit that VULCAN cannot identify a written communication regarding lease negotiations with THE CLUB that indicated THE CLUB would be responsible for the cleanup of bullets present at the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 91:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the phrase "regarding lease negotiations." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds

for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “regarding lease negotiations.” The phrase “regarding lease negotiations” uses common English words in a common manner. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what “regarding lease negotiations” meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 92:

Admit that, at no time during any lease negotiation did VULCAN discuss with THE CLUB what type of cleanup of the PROPERTY was expected by VULCAN upon the end of the leasehold relationship.

RESPONSE TO REQUEST FOR ADMISSION NO. 92:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the term "discuss." Vulcan has no independent means of admitting or denying the current Request other than from

discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding the term "discuss" The term "discuss" is a common English word used in a common manner. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "discuss" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that word, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be

provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 93:

Admit that the placement of WASTE MATERIAL at the PROPERTY started before any VULCAN employee raised a concern about ricochets coming from the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 93:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE MATERIAL," and the phrase "Ricochets coming from." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)),

and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “WASTE PILE” and “ricochets coming from[.]” As to WASTE PILE, Vulcan itself referred to the pile at issue as the “waste pile.” See VUL00816. As to “ricochets coming from,” that phrase uses words commonly used in a common way. The response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what these phrases meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., *California Civil Discovery Practice*, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

Vulcan’s failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 94:

Admit VULCAN does not intend to move the WASTE PILE.

RESPONSE TO REQUEST FOR ADMISSION NO. 94:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least time and the definition of "WASTE PILE." Vulcan has no independent means of admitting or denying the current

Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. The response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what "WASTE PILE" meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood that phrase, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive.

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Vulcan's failure to respond to this RFA is a misuse of the discovery process that justifies sanctions. Civ. Proc. Code § 2023.010(d)-(f). In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 95:

Admit VULCAN has not in any way attempted to determine what environmental impact, if any, arising as a result of the bullets that are buried beneath the WASTE PILE.

RESPONSE TO REQUEST FOR ADMISSION NO. 95:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that it is unintelligible. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE," and the phrase "arising as a result of the bullets." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is “vague and ambiguous” regarding “WASTE PILE.” As to WASTE PILE, Vulcan itself referred to the pile at issue as the “waste pile.” See VUL00816. As to the phrase “arising as a result of the bullets,” it includes a typographical error, and the phrase should have read “has arisen as a result of the bullets” Nonetheless, the response above is clearly not “as complete and straightforward as the information reasonably available to the responding party permits” as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what the phrases at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the phrases, and answered accordingly. “Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 96:

Admit VULCAN has not in any way attempted to determine what environmental impact, if any, arising as a result of the bullets that are within the sub-surface soil in the WASTE PILE.

RESPONSE TO REQUEST FOR ADMISSION NO. 96:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects

to this request on the grounds that it is unintelligible. Vulcan further objects to this request on the grounds that it is vague and ambiguous with respect to at least the definition of "WASTE PILE," and the phrase "arising as a result of the bullets." Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan is plainly being disingenuous in stating this request is "vague and ambiguous" regarding "WASTE PILE." As to WASTE PILE, Vulcan itself referred to the pile at issue as the "waste pile." See VUL00816. As to the phrase "arising as a result of the bullets," it includes a typographical error, and the phrase should have read "has arisen as a result of the bullets" Nonetheless, the response above is clearly not "as complete and straightforward as the information reasonably available to the responding party permits" as required by Code of Civil Procedure section 2033.220(a). In any event, even if Vulcan was unsure of what the phrases at issue meant, Vulcan should have made a reasonable attempt to explain how Vulcan understood the phrases, and answered accordingly. "Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response. (See C.E.B., California Civil Discovery Practice, Section 8.54 (C.E.B.1975).)" *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783 (1978).

Fourth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 97:

Admit that the FINAL LEASE has a provision that states "holding over shall be a tenancy from month to month."

RESPONSE TO REQUEST FOR ADMISSION NO. 97:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan further objects to this request on the grounds that the quote is incomplete. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, Vulcan’s objection “that the quote is incomplete” is nonsense, and concomitantly, no such recognized objection exists.

Fourth, there is no recognized objection that allows a party to avoid answering an RFA regarding the contents of a document because such contents are “self-explanatory.” Further, the fact that Vulcan raises this objection at all tends to suggest that there *is* a dispute as to how the document at issue should be interpreted, meaning it is thus *not* self-explanatory.

Fifth, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 98:

Admit THE CLUB held over on the PROPERTY pursuant to the holdover provision of the LEASE.

RESPONSE TO REQUEST FOR ADMISSION NO. 98:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 99:

Admit that VULCAN has not contacted the California Department of Toxic Substances Control about the presence of lead at THE PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 99:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work

product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 100:

Admit that VULCAN has not contacted the Regional Water Quality Control Board about the presence of lead at THE PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 100:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally

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obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 101:

Admit that VULCAN has not contacted the Los Angeles Department of Health Services about the presence of lead at THE PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 101:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds

for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 102:

Admit that VULCAN has not contacted the Environmental Protection Agency about the presence of lead at THE PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 102:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more

than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 103:

Admit that THE CLUB took steps to remediate the PROPERTY before July 2006.

RESPONSE TO REQUEST FOR ADMISSION NO. 103:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 104:

Admit that VULCAN has not followed the requirements of the California Department of Toxic Substances Control for environmental cleanup.

RESPONSE TO REQUEST FOR ADMISSION NO. 104:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in

the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 105:

Admit that VULCAN has disposed of hazardous substances at the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 105:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the

extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added).

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 106:

Admit that VULCAN consented to THE CLUB leaving SPENT AMMUNITION on the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 106:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion and information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion[.]" RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 107:

Admit that VULCAN contends that THE CLUB refused all requests by VULCAN to clean up SPENT AMMUNITION.

RESPONSE TO REQUEST FOR ADMISSION NO. 107:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added). A perfect example of Vulcan’s failure to actually consider if their objections are legitimate is the use of the following objection: “Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion[.]” RFAs are *expressly* allowed to ask for legal conclusions, i.e., the “application of law to fact.” Civ. Proc. Code § 2033.010.

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The

motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 108:

Admit that THE CLUB hired a lead reclamation company in 2007 to perform lead reclamation at the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 108:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added). A perfect example of Vulcan’s failure to actually consider if their objections are legitimate is the use of the following objection: “Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion[.]” RFAs are *expressly* allowed to ask for legal conclusions, i.e., the “application of

law to fact.” Civ. Proc. Code § 2033.010.

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 109:

Admit that a VULCAN representative told Fred Wooldridge that he was not allowed to commence lead reclamation at the PROPERTY in 2007.

RESPONSE TO REQUEST FOR ADMISSION NO. 109:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to

this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion[.]" RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 110:

Admit that a VULCAN representative told Fred Wooldridge that he was not allowed to use a water source controlled by VULCAN when Mr. Wooldridge was present at the PROPERTY in 2007.

RESPONSE TO REQUEST FOR ADMISSION NO. 110:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work

product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion[.]" RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1

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(The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 111:

Admit that a Charles St. John spoke with Fred Wooldridge in person at the PROPERTY in 2007.

RESPONSE TO REQUEST FOR ADMISSION NO. 111:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added). A perfect example of Vulcan’s failure to actually consider if their objections are legitimate is the use of the following objection: “Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion[.]” RFAs are *expressly* allowed to ask for legal conclusions, i.e., the “application of law to fact.” Civ. Proc. Code § 2033.010.

Second, Vulcan’s attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge “declaration of necessity” for additional requests: A motion

for protective order also lies to challenge a “declaration of necessity” served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made “promptly” (CCP § 2033.080(a)), and before expiration of the 30–day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether “Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.” At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 112:

Admit that a VULCAN employee told Fred Wooldridge that he was not to attempt to obtain an air quality permit regarding work to be performed at the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 112:

Vulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan’s objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) (“If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*”) (italics added).

A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion[.]" RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

REQUEST FOR ADMISSION NO. 113:

Admit that a Charles St. John told Fred Wooldridge that he was not to attempt to obtain an air quality permit regarding work to be performed at the PROPERTY.

RESPONSE TO REQUEST FOR ADMISSION NO. 113:

VVulcan incorporates by this reference the Preliminary Statement and General Objections set forth above, as if fully set forth herein. Vulcan further objects to this Request on the grounds that it exceeds the number of Requests for Admissions permitted by California Code of Civil Procedure §2033.030 and Defendant has not provided adequate justification pursuant to California Code of Civil Procedure §§ 2033.040 and 2033.050. Vulcan further objects to this request on the basis and to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the right of privacy of Vulcan and/or of other persons guaranteed by the United States

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and California Constitutions and/or any other applicable rule or privilege. Vulcan further objects to this request on the basis and to the extent it seeks information neither relevant to the issues in dispute nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this request on the basis that it is overbroad, unduly burdensome and harassing. Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, Vulcan's objections to this request are mostly unsupported, inappropriate boilerplate objections. Civ. Proc. Code § 2033.230(b) ("If an objection is made to a request or to a part of a request, the *specific ground for the objection shall be set forth clearly in the response.*") (italics added). A perfect example of Vulcan's failure to actually consider if their objections are legitimate is the use of the following objection: "Vulcan further objects to this request on the basis and to the extent it seeks a legal conclusion[.]" RFAs are *expressly* allowed to ask for legal conclusions, i.e., the "application of law to fact." Civ. Proc. Code § 2033.010.

Second, Vulcan's attempt to object based on Civil Procedure Code section 2033.040 and 2033.050 is without effect. That is, if Vulcan actually wanted to challenge the declaration of necessity served along with the RFA at issue, such challenge was required to be made no later than the deadline for producing responses. No such motion was timely filed or served, meaning any challenge to the declaration of necessity at issue has been waived.

(1) [8:1303.2] To challenge "declaration of necessity" for additional requests: A motion for protective order also lies to challenge a "declaration of necessity" served with more than 35 RFAs (other than relating to genuineness of documents; see ¶ 8:1270). The motion places in issue whether the additional discovery requests are justified. [CCP § 2033.080(b)(2)]

[¶¶]

(1) [8:1304.1] Timeliness: The motion must be made "promptly" (CCP § 2033.080(a)), and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived; see ¶ 8:1367 ff.). [CCP § 2033.280(a)]

Rylaarsdam, et al., California Practice Guide: Civil Procedure Before Trial §§ 8:1303.2 and 8:1304.1 (The Rutter Group 2012).

Third, it is irrelevant to an RFA response whether "Vulcan has no independent means of admitting or denying the current Request other than from discovery produced in the Federal Litigation, which is equally accessible to the propounding party." At best, this statement is unintentionally obfuscatory, and at worst, it is intentionally evasive. In summary, SGVGC demands a further response be provided regarding the request at issue.

INTERROGATORIES

INTERROGATORY NO. 9.1:

Are there any other damages that you attribute to the **INCIDENT**? If so, for each item of damage state:

- (a) the nature;
- (b) the date it occurred;
- (c) the amount; and
- (d) the name, **ADDRESS**, and telephone number of each **PERSON** to whom an obligation

was incurred.

RESPONSE TO INTERROGATORY NO. 9.1:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the foregoing objections and the Preliminary Statement and General Objections set forth above and incorporated herein, and without waiving the same, Vulcan responds as follows:

Not other than stated in the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

In responding to interrogatories,

It is not proper to answer by stating, "See my deposition" or "See the complaint herein." If the question requires reference to some other document, it should be identified and its contents summarized so that the answer by itself is fully responsive to the interrogatory. [*Deyo v. Kilbourne, supra*, 84 CA3d at 783-784, 149 CR at 510]

Rylaarsdam § 8:1049 (The Rutter Group 2012).

A further response is hereby demanded that meets with the requirements of the above-cited authority.

INTERROGATORY NO. 9.2:

Do any **DOCUMENTS** support the existence or amount of any item of damages claimed in interrogatory 9.1? If so, state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT**.

RESPONSE TO INTERROGATORY NO. 9.2:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the foregoing objections and the Preliminary Statement and General Objections set forth above and incorporated herein, and without waiving the same, Vulcan responds as follows:

Not Applicable.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

This interrogatory is plainly applicable, and Vulcan's failure to provide a proper response to Form Interrogatory No. 9.1 does not absolve Vulcan from compliance herewith. A further response is hereby demanded under Code of Civil Procedure section 2030.220(a) ("Each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.").

INTERROGATORY NO. 12.1:

State the name, **ADDRESS**, and telephone number of each individual:

- (a) who witnessed the **INCIDENT** or the events occurring immediately before or after the **INCIDENT**;
- (b) who made any statement at the scene of the **INCIDENT**;

(c) who heard any statements made about the **INCIDENT** by any individual at the scene;
and

(d) who **YOU OR ANYONE ACTING ON YOUR BEHALF** claim has knowledge of the **INCIDENT** (except for expert witnesses covered by Code of Civil Procedure section 2034).

RESPONSE TO INTERROGATORY NO. 12.1:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the foregoing objections and the Preliminary Statement and General Objections set forth above and incorporated herein, and without waiving the same, Vulcan responds as follows:

The percipient witnesses deposed in the federal litigation that preceded the instant state court litigation viewed a portion of the Gun Club's contaminating activities.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

This response does not provide any of the specifics (“name, **ADDRESS**, telephone number”) as required by the question, nor does it identify who made statements (sub (b)) or heard statements (sub (c)) or has knowledge (sub (d)) about the “**INCIDENT.**” A further response is hereby demanded under Code of Civil Procedure section 2030.220(a) (“Each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.”). At the least, Vulcan needs to identify *which* percipient witnesses it is referring to in its response, and clarify if those few people are the *only* persons Vulcan can reasonably identify with regard to the interrogatory asked. (It seems highly unlikely the approximately 2 dozen people deposed in this case are the only people Vulcan can identify re: sub (d)). Assuming Vulcan can reasonably identify “responsive” individuals regarding this interrogatory who were not deposed in the Federal action, this interrogatory needs to be answered in full as to them.

INTERROGATORY NO. 12.4:

Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any photographs, films, or videotapes depicting any place, object, or individual concerning the **INCIDENT** or plaintiff's injuries?

If so, state:

- (a) the number of photographs or feet of film or videotape;
- (b) the places, objects, or persons photographed, filmed, or videotaped;
- (c) the date the photographs, films, or videotapes were taken;
- (d) the name, **ADDRESS**, and telephone number of the individual taking the photographs,

films, or videotapes; and

(e) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original or a copy of the photographs, films, or videotapes.

RESPONSE TO INTERROGATORY NO. 12.4:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the foregoing objections and the Preliminary Statement and General Objections set forth above and incorporated herein, and without waiving the same, Vulcan responds as follows:

None that have not already been shared with Defendant.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

This response treats the interrogatory as if it is a request for production of documents. It is not. The information sought is not necessarily included in the documents allegedly provided to SGVGC. A further response is hereby demanded under Code of Civil Procedure section 2030.220(a) ("Each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.").

INTERROGATORY NO. 12.5:

Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any diagram, reproduction, or model of any place or thing (except for items developed by expert witnesses covered by Code of Civil Procedure section 2034) concerning the **INCIDENT**? If so, for each item state:

- (a) the type (i.e., diagram, reproduction, or model);
- (b) the subject matter; and
- (c) the name, **ADDRESS**, and telephone number of each **PERSON** who has it.

RESPONSE TO INTERROGATORY NO. 12.5:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the foregoing objections and the Preliminary Statement and General Objections set forth above and incorporated herein, and without waiving the same, Vulcan responds as follows:

None that have not already been shared with Defendant.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

This response treats the interrogatory as if it is a request for production of documents. It is not. The information sought is not necessarily included in the documents allegedly provided to SGVGC. A further response is hereby demanded under Code of Civil Procedure section 2030.220(a) ("Each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.").

INTERROGATORY NO. 12.6:

Was a report made by any **PERSON** concerning the **INCIDENT**? If so, state:

- (a) the name, title, identification number, and employer of the **PERSON** who made the report;

- (b) the date and type of report made;
- (c) the name, **ADDRESS**, and telephone number of the **PERSON** for whom the report was made; and
- (d) the name, **ADDRESS**, and telephone number of the **PERSON** who has the original or a copy of the report.

RESPONSE TO INTERROGATORY NO. 12.6:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the foregoing objections and the Preliminary Statement and General Objections set forth above and incorporated herein, and without waiving the same, Vulcan responds as follows:

None that have not already been shared with Defendant.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

This response treats the interrogatory as if it is a request for production of documents. It is not. The information sought is not necessarily included in the documents allegedly provided to SGVGC. A further response is hereby demanded under Code of Civil Procedure section 2030.220(a) ("Each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.").

INTERROGATORY NO. 12.7:

Have **YOU OR ANYONE ACTING ON YOUR BEHALF** inspected the scene of the **INCIDENT**? If so, for each inspection state:

- (a) the name, **ADDRESS**, and telephone number of the individual making the inspection (except for expert witnesses covered by Code of Civil Procedure section 2034); and

(b) the date of the inspection.

RESPONSE TO INTERROGATORY NO. 12.7:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the foregoing objections and the Preliminary Statement and General Objections set forth above and incorporated herein, and without waiving the same, Vulcan responds as follows:

None that have not already been shared with Defendant.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

This response treats the interrogatory as if it only requests the names of persons who have inspected the property at issue. It does not. The information sought is not completely included in the documents and information allegedly provided to SGVGC. A further response is hereby demanded under Code of Civil Procedure section 2030.220(a) ("Each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.").

INTERROGATORY NO. 17.1:

Is your response to each request for admission served with these interrogatories an unqualified admission? If not, for each response that is not an unqualified admission:

- (a) state the number of the request;
- (b) state all facts upon which you base your response;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of those facts; and
- (d) identify all **DOCUMENTS** and other tangible things that support your response and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.

RESPONSE TO INTERROGATORY NO. 17.1:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the foregoing objections and the Preliminary Statement and General Objections set forth above and incorporated herein, and without waiving the same, Vulcan responds as follows:

Request for Admission 1: The leases in effect are as follows:

1947 Lease - January 1, 1947 - August 31, 1950

1950 Lease - August 31, 1950 - January 1, 1958

1958 Lease - January 1, 1958 - August 31, 1961

1961 Lease - September 1, 1961 - December 10, 1970

1970 Lease - December 11, 1970 - December 11, 1977

1977 Lease - December 11, 1977 - February 3, 1988

1988 Lease - February 4, 1988 - May 19, 1992

1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006

All of which are in the possession of both parties and are attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

In responding to interrogatories,

It is not proper to answer by stating, "See my deposition" or "See the complaint herein." If the question requires reference to some other document, it should be identified and its contents summarized so that the answer by itself is fully responsive to the interrogatory. [*Deyo v. Kilbourne, supra*, 84 CA3d at 783-784, 149 CR at 510]

Rylaarsdam § 8:1049 (The Rutter Group 2012). Furthermore, Vulcan is required to "state all facts upon which" it made the RFA response at issue. A list of contracts is not a statement of facts. A list of dates Vulcan (incorrectly) interprets such leases were "in effect" is not a statement of facts. A statement of facts would be a citation to the provisions of the contracts that form a basis for the denial

at issue. What Vulcan has provided, however, is *not* a statement of contractual provisions, but a list of dates it contends such contracts were “effective.” The “effective” dates provided by Vulcan are not correct, however, provided in an obvious attempt to avoid answering the RFA at issue as to the key word therein: “when there was no *contemporaneous* lease in effect[.]”

For example, Vulcan states the 1977 lease was in effect “December 11, 1977 - February 3, 1988.” The 1977 Lease expressly states it expires on midnight, December 10, 1987. The next lease for the property was “entered into this 4th day of February 1988[.]” Unless Vulcan has proof of a lease that was *contemporaneously* in effect between December 11, 1987, and February 3, 2012, the denial at issue is untrue, as is the information provided in response to Form Interrogatory (“FI”) No. 17.1 re: RFA No. 1.

Finally, aside from the problems with what Vulcan provided in response to this interrogatory re: sub (b) thereof, it plainly failed to provide any response as to subs (c) and (d). Code of Civil Procedure section 2030.220(a) states: “each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.” Accordingly, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 2: The leases in effect are as follows:

1947 Lease - January 1, 1947 - August 31, 1950

1950 Lease - August 31, 1950 - January 1, 1958

1958 Lease - January 1, 1958 - August 31, 1961

1961 Lease - September 1, 1961 - December 10, 1970

1970 Lease - December 11, 1970 - December 11, 1977

1977 Lease - December 11, 1977 - February 3, 1988

1988 Lease - February 4, 1988 - May 19, 1992

1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006

All of which are in the possession of both parties and are attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

In responding to interrogatories,

It is not proper to answer by stating, “See my deposition” or “See the complaint herein.” If the question requires reference to some other document, it should be identified and its contents summarized so that the answer by itself is fully responsive to the interrogatory. [*Deyo v. Kilbourne, supra*, 84 CA3d at 783–784, 149 CR at 510]

Rylaarsdam § 8:1049 (The Rutter Group 2012). Furthermore, Vulcan is required to “state all facts upon which” it made the RFA response at issue. A list of contracts is not a statement of facts. A list of dates Vulcan (incorrectly) interprets such leases were “in effect” is not a statement of facts. A statement of facts would be a citation to the provisions of the contracts that form a basis for the denial at issue. What Vulcan has provided, however, is *not* a statement of contractual provisions, but a list of dates it contends such contracts were “effective.” The “effective” dates provided by Vulcan are not correct, however, provided in an obvious attempt to avoid answering the RFA at issue as to the key word therein: “when there was no *contemporaneous* lease in effect[.]”

Vulcan states the 1977 lease was in effect “December 11, 1977 - February 3, 1988.” The 1977 Lease expressly states it expires on midnight, December 10, 1987. The next lease for the property was “entered into this 4th day of February 1988[.]” Unless Vulcan has proof of a lease that was *contemporaneously* in effect between December 11, 1987, and February 3, 2012, the denial at issue is untrue, as is the information provided in response to FI No. 17.1 re: RFA No. 2.

Finally, aside from the problems with what Vulcan provided in response to this interrogatory re: sub (b) thereof, it plainly failed to provide any response as to subs (c) and (d). Code of Civil Procedure section 2030.220(a) states: “each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.” Accordingly, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 3: Vulcan and its predecessors-in-interest have owned the Azusa property since prior to January 1947 and were aware of its condition by virtue of their ownership.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." The relevant RFA asks about Vulcan's current knowledge about the condition of the property at issue before 1947. The response provided is evasive; it says that "Vulcan and its predecessors-in-interest were aware of its condition by virtue of their ownership." "Were" does not mean the same thing as "is" does, and thus Vulcan is not responding to the inquiry actually made. There is no doubt that the employees of the property-owning entity would have observed the condition of the property prior to 1947. It is 2012, however, and unless Vulcan has a percipient or hearsay witness it failed to disclose in response to this interrogatory, its response must be based on documentary evidence (giving Vulcan the benefit of the doubt and assuming the response was based on some for of evidence).

Vulcan has provided an insufficient response to this interrogatory re: sub (b), and no response re: subs (c) and (d). Accordingly, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 4: The Azusa property was not used as a "shooting range" as Vulcan understands this phrase, prior to the first written lease between Vulcan and the Gun Club in 1947.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

First, unless Vulcan is using an unreasonable definition of "shooting range[,]" which SGVGC cannot determine because Vulcan chose to eschew proper practice by failing to explain how it was interpreting the phrase at issue, there is sufficient evidence upon which the underlying RFA should have been admitted. *See* VUL01235; Vulcan's Response to the Third Set of Requests for Admission propounded by SGVGC in the Federal action at 10:1-9. Nonetheless, as Vulcan states definitively that "The Azusa property was not used as a "shooting range". . . prior to the first written lease between Vulcan and the Gun Club in 1947[,]" it must have some evidence upon which that statement was made.

And yet, Vulcan failed to provide any facts to support its denial, nor did Vulcan respond to FI 17.1(c)-(d).

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." Accordingly, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 5: Vulcan does not claim that the Gun Club made "no attempt" to clean up the property between December 31, 1947 and November 1, 2006. Rather Vulcan contends that the Gun Club did not clean up the property as required pursuant to the terms of the Lease Agreements and as required by applicable law.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." Vulcan's response to RFA No. 5 is a denial, but the statement above seems to be an evasively worded admission. Regardless, because this response cannot be squared with the denial at issue, the responses is not as straightforward as the information reasonably permits. Accordingly, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1.

Request for Admission 6: Vulcan informed the Gun Club on multiple occasions that the presence of "Spent Ammunition" could cause damage to the Property. At a minimum, the Gun Club was on notice of such information by virtue of the Lease Agreements which are in the possession of the Gun Club and attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." First, if the "multiple occasions" occurred after January 1, 2004, they are

irrelevant to the question asked, and the mention of such events suggests an intent to deceive. If the “multiple occasions” occurred before January 1, 2004, Vulcan is required to state *all* facts supporting te denial. The fact that Vulcan did not provide *any* specifics regarding the “multiple occasions” can only mean one of two things: 1) Vulcan is not taking its discovery obligations seriously, and it knowingly chose to not provide the details required under FI 17.1, or 2) there are no facts to support that denial at issue. Either way, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

And as to Vulcan’s contention that the leases put SGVGC “on notice,” the RFA at issue asked about express communication on specific topic, not inferred communication. And regardless, Vulcan’s failure to provide any citation to specific lease provision means this portion of Vulcan’s response is nonetheless insufficient under section 2030.220(a).

Request for Admission 7: Vulcan informed the Gun Club that the presence of "Spent Ammunition" at the Property was causing damage to the Property on multiple occasions. At a minimum, the Gun Club was on notice of such information by virtue of the Lease Agreements which are in the possession of the Gun Club and attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: “each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.” First, if the “multiple occasions” occurred after January 1, 2004, they are irrelevant to the question asked, and the mention of such events suggests an intent to deceive. If the “multiple occasions” occurred before January 1, 2004, Vulcan is required to state *all* facts supporting te denial. The fact that Vulcan did not provide *any* specifics regarding the “multiple occasions” can only mean one of two things: 1) Vulcan is not taking its discovery obligations seriously, and it knowingly chose to not provide the details required under FI 17.1, or 2) there are no facts to support that denial at

issue. Either way, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

And as to Vulcan's contention that the leases put SGVGC "on notice," the RFA at issue asked about express communication on specific topic, not inferred communication. And regardless, Vulcan's failure to provide any citation to specific lease provision means this portion of Vulcan's response is nonetheless insufficient under section 2030.220(a).

Request for Admission 8: Vulcan told the Gun Club that the presence of lead from bullets shot at the Property was causing damage to the Property on multiple occasions. At a minimum, the Gun Club was on notice of such information by virtue of the Lease Agreements which are in the possession of the Gun Club and attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." First, if the "multiple occasions" occurred after January 1, 2004, they are irrelevant to the question asked, and the mention of such events suggests an intent to deceive. If the "multiple occasions" occurred before January 1, 2004, Vulcan is required to state *all* facts supporting the denial. The fact that Vulcan did not provide *any* specifics regarding the "multiple occasions" can only mean one of two things: 1) Vulcan is not taking its discovery obligations seriously, and it knowingly chose to not provide the details required under FI 17.1, or 2) there are no facts to support that denial at issue. Either way, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

And as to Vulcan's contention that the leases put SGVGC "on notice," the RFA at issue asked about express communication on specific topic, not inferred communication. And regardless, Vulcan's failure to provide any citation to specific lease provision means this portion of Vulcan's response is nonetheless insufficient under section 2030.220(a).

Request for Admission 9: Vulcan told the Gun Club that lead bullets shot at the Property could cause damage to the Property on multiple occasions. At a minimum, the Gun Club was on notice

of such information by virtue of the Lease Agreements which are in the possession of the Gun Club and attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." First, if the "multiple occasions" occurred after January 1, 2004, they are irrelevant to the question asked, and the mention of such events suggests an intent to deceive. If the "multiple occasions" occurred before January 1, 2004, Vulcan is required to state *all* facts supporting denial. The fact that Vulcan did not provide *any* specifics regarding the "multiple occasions" can only mean one of two things: 1) Vulcan is not taking its discovery obligations seriously, and it knowingly chose to not provide the details required under FI 17.1, or 2) there are no facts to support that denial at issue. Either way, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

And as to Vulcan's contention that the leases put SGVGC "on notice," the RFA at issue asked about express communication on specific topic, not inferred communication. And regardless, Vulcan's failure to provide any citation to specific lease provision means this portion of Vulcan's response is nonetheless insufficient under section 2030.220(a).

Request for Admission 10: At a minimum, the Lease Agreements put the Gun Club on notice, prior to January 1, 2003, that they were required to remove "Spent Ammunition" from the Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the property and from interfering with the use and enjoyment of neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws, including environmental laws, and (3) required that the Gun Club maintain the property in good condition and repair and, upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club and are attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." As to Vulcan's contention that the leases put SGVGC "on notice," the RFA at issue inquired about express communication on specific topic, not inferred communication. Thus, the discussion regarding lease terms is irrelevant. Because Vulcan's response fails to state facts to support the denial actually made (not the denial of an RFA SGVGC never asked), SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 11: At a minimum, The Lease Agreements put the Gun Club on notice, prior to January 1, 2003, that they were required to remove "lead" from the Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the property and from interfering with the use and enjoyment of neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws, including environmental laws, and (3) required that the Gun Club maintain the property in good condition and repair and, upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club and are attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." As to Vulcan's contention that the leases put SGVGC "on notice," the RFA at issue inquired about express communication on specific topic, not inferred communication. Thus, the discussion regarding lease terms is irrelevant. Because Vulcan's response fails to state facts to support the denial actually made (not the denial of an RFA SGVGC never asked), SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 12: The Lease Agreements put the Gun Club on notice, prior to 2004, that they were specifically required to remove "Spent Ammunition" from the Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the property

and from interfering with the use and enjoyment of neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws, including environmental laws, and (3) required that the Gun Club maintain the property in good condition and repair and, upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club and are attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." As to Vulcan's contention that the leases put SGVGC "on notice," the RFA at issue inquired about express communication on specific topic, not inferred communication. Thus, the discussion regarding lease terms is irrelevant. Because Vulcan's response fails to state facts to support the denial actually made (not the denial of an RFA SGVGC never asked), SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 13: The Lease Agreements put the Gun Club on notice, prior to 2004, that they were specifically required to remove "lead" from the Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the property and from interfering with the use and enjoyment of neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws, including environmental laws, and (3) required that the Gun Club maintain the property in good condition and repair and, upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club and are attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." As to Vulcan's contention that the leases put SGVGC "on notice," the RFA at issue inquired about express communication on specific topic, not inferred communication. Thus, the discussion regarding lease terms is irrelevant. Because Vulcan's response fails to state facts to

support the denial actually made (not the denial of an RFA SGVGC never asked), SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 14: The Lease Agreements put the Gun Club on notice, prior to 2004, that they were specifically required to remove "Spent Ammunition" from the Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the property and from interfering with the use and enjoyment of neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws, including environmental laws, and (3) required that the Gun Club maintain the property in good condition and repair and, upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club and are attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." As to Vulcan's contention that the leases put SGVGC "on notice," the RFA at issue inquired about express communication on specific topic, not inferred communication. Thus, the discussion regarding lease terms is irrelevant. Because Vulcan's response fails to state facts to support the denial actually made (not the denial of an RFA SGVGC never asked), SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 15: The Lease Agreements put the Gun Club on notice, prior to 2004, that they were specifically required to remove "lead" from the Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the property and from interfering with the use and enjoyment of neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws, including environmental laws, and (3) required that the Gun Club maintain the property in good condition and repair and, upon termination of the lease, return

the Final Leasehold Property in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club and are attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." As to Vulcan's contention that the leases put SGVGC "on notice," the RFA at issue inquired about express communication on specific topic, not inferred communication. Thus, the discussion regarding lease terms is irrelevant. Because Vulcan's response fails to state facts to support the denial actually made (not the denial of an RFA SGVGC never asked), SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 16: The Lease Agreements include a provision specifically dealing with "Spent Ammunition." Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the property and from interfering with the use and enjoyment of neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws, including environmental laws, and (3) required that the Gun Club maintain the property in good condition and repair and, upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club and are attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." The RFA at issue does not inquire regarding what is included in an executed lease, it inquires if Vulcan ever indicated a desire to include a certain lease provision in a lease between Vulcan and SGVGC, a very different issue. Vulcan's response states nothing on the later issue (the one that is actually relevant), instead focusing on something irrelevant: Vulcan's

interpretation of executed leases. Accordingly, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 17: The Lease Agreements include a provision specifically dealing with "lead." Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the property and from interfering with the use and enjoyment of neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws, including environmental laws, and (3) required that the Gun Club maintain the property in good condition and repair and, upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club and are attached to the Complaint.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." The RFA at issue does not inquire regarding what is included in an executed lease, it inquires if Vulcan ever indicated a desire to include a certain lease provision in a lease between Vulcan and SGVGC, a very different issue. Vulcan's response states nothing on the later issue (the one that is actually relevant), instead focusing on something irrelevant: Vulcan's interpretation of executed leases. Accordingly, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Request for Admission 30: At no time prior to May 20, 1992 did Vulcan have any knowledge that any purported "Waste Material" had resulted in the burial of lead bullets.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits." First, Vulcan is treading on thin ice in making the statement above, considering the 1991

memo from Tom Jenkins expressly discussing this issue (VUL00816), the aerial photographs showing when the WASTE PILE was placed, and deposition testimony of Tom Sheedy and Preston Cowan, who were on-site in the relevant time frame and each were responsible (in different ways) for overseeing the construction of the WASTE PILE.

Regardless, if Vulcan is going to stick by its denial that it did not have any” knowledge that any purported "Waste Material" had resulted in the burial of lead bullets[,]” it needs to provide the facts such statement is based on. Just because the RFA at issue deals with a lack of knowledge on a topic, that does not absolve Vulcan from its duties under FI 17.1(b)-(d) to provide information as to who and/or what provided the basis for the “facts” at issue. Accordingly, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

INTERROGATORY NO. 50.2:

Was there a breach of any agreement alleged in the pleadings? If so, for each breach describe and give the date of every act or omission that you claim is the breach of the agreement.

RESPONSE TO INTERROGATORY NO. 50.2:

In addition to the General Objections set forth above, Vulcan objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the foregoing objections and the Preliminary Statement and General Objections set forth above and incorporated herein, and without waiving the same, Vulcan responds as follows:

Yes.

1947 Lease

1950 Lease

1958 Lease

1961 Lease

1970 Lease

1977 Lease

1988 Lease

1992 Lease

1992 Lease Amendment

From approximately January 1947 to November 2006, pursuant to the above mentioned leases, Gun Club leased some or all of Vulcan's Property from Vulcan for the purposes of operating a gun club and firearms shooting range. The Gun Club's activities extensively contaminated the soil and potentially groundwater at and underlying the Vulcan Property and, potentially, neighboring parcels with heavy metals and other hazardous substances (the "Contamination"). During the Gun Club's operation and use of the Vulcan Property, hazardous substances were used, dumped, released, deposited, and/or disposed of onto and into the soil and, potentially, the groundwater at, on, beneath the Vulcan Property and, potentially, neighboring properties.

On or about August and September 2005 the Gun Club disclaimed any responsibility for remediating the Contamination. By July 2006, the Gun Club had done little or nothing to remediate Vulcan's Property. On or about November 1, 2006, Vulcan received a proposal from the Gun Club for a Phase I Environmental Site Assessment ("ESA") and a Phase II ESA proposal (the "Assessment Proposals") for the Vulcan Property.

The Gun Club ceased operations as of approximately November 6, 2006 but remained in possession of the Final Leasehold Property, purportedly for the purpose of remediating the contamination caused by the Gun Club's operations.

On November 9, 2006, Vulcan detailed its concerns about the Assessment Proposals. Among other things, Vulcan informed the Gun Club that the Assessment Proposals: (a) failed to mention the requirement for governmental oversight of the assessment and cleanup; (b) did not provide for thorough remediation of all contamination caused by the Gun Club's activities during its tenancy; (c) would leave significant contamination remaining in the ground on the Vulcan Property and, potentially,

in off-site areas contaminated by the Gun Club activities; and (d) failed to provide for confirmation sampling to ensure proper and sufficient clean up.

Rather than specifically respond to Vulcan's November 9, 2006 correspondence, the Gun Club responded on or about January 2, 2007 with a letter stating that "the cleanup of the site has commenced and may well be complete before the end of January 2007." The Gun Club further indicated that on-site cleanup would be performed in conformity with, and there was no money for remediation beyond, the EPA's Best Management Practices For Lead at Outdoor Shooting Ranges ("EPA's Shooting Range BMP").

By letter dated January 4, 2007, Vulcan informed the Gun Club that EPA's Shooting Range BMP does not provide the appropriate remedial guidance or standards for closed gun ranges, including the Vulcan Property. Notably, EPA's Shooting Range BMP neither sets numerical standards for lead or other hazardous substances in soil nor complies with the California Department of Toxic Substances Control's ("DTSC") regulation of closed and abandoned outdoor shooting ranges. Vulcan therefore insisted that the Gun Club's remediation comport with DTSC requirements, including, but not limited to, adequate soil sampling and preparation of a Preliminary Endangerment Assessment ("PEA").

Vulcan again wrote to the Gun Club on May 17, 2007, expressing its concern that the Gun Club had not yet commenced clean-up efforts and had only recently hired a lead reclamation contractor to begin reclaiming lead at the Vulcan Property. Vulcan also noted that the Gun Club's contractor was not properly licensed or insured and had not obtained the permits necessary to perform any work. Additionally, Vulcan explained that the Gun Club's contractor had not prepared a proper scope of work nor complied with Vulcan's previous requests that the cleanup be performed under appropriate governmental oversight.

On May 30, 2007, the Gun Club declared that it was not required to provide a PEA or a proper scope of work (including necessary assessment, confirmation sampling, and remediation requirements), and claimed that its limited finances precluded the Gun Club from performing the type of remediation as required by Vulcan and mandated by applicable law.

After the Gun Club failed to take any meaningful steps to investigate and remediate the Contamination, Vulcan again wrote to the Gun Club on or about January 16, 2008 demanding that the Gun Club commence agency approved remediation activities by February 4, 2008.

Defendants failed to comply with the February 4, 2008 deadline.

Defendants have not followed DTSC requirements for environmental cleanup and have failed to remediate the contamination at the Azusa Property.

Defendants have also breached the Leases referenced above, by:

- Failing to indemnify Vulcan for damage to the leased property caused by the Gun Club's use of said property;
- Failing to indemnify Vulcan for damage to portions of the Azusa Property not leased by Gun Club and caused by Gun Club's used of leased portions of the Vulcan property;
- Permitting waste on the Azusa Property;
- Permitting nuisance on the Azusa Property;
- Interfering with the use and enjoyment of neighboring real property;
- Failing to keep the leased property in good repair and conditions;
- Failing to keep the leased property in good order and in a safe, sanitary condition;
- Failing to return the leased property in a good, safe and sanitary condition satisfactory to Vulcan at the termination of the Leases;
- Permitting the conduct of unlawful activities on the leased property; and
- Failing to comply with all applicable laws wherein the leased property is located.

REASON WHY FURTHER RESPONSE SHOULD BE PROVIDED:

Code of Civil Procedure section 2030.220(a) states: "each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the

Ms. Elizabeth A. Culley
June 22, 2012
Page 154 of 154

responding party permits.” Vulcan’s response fails to identify the dates the alleged breaches occurred *as to any particular lease*. A proper response would list the dates of breach as to every lease individually, rather than listing a jumbled set of alleged breaches applying to all of the leases in sum. Accordingly, SGVGC demands Vulcan provide a further response that complies with FI No. 17.1 (b)-(d).

Sincerely,

MICHEL & ASSOCIATES, P.C.

Th. E. Maciejewski for
Thomas E. Maciejewski

Scott M. Franklin

SMF/cs

EXHIBIT 4

Scott Franklin

From: Scott Franklin
Sent: Tuesday, July 24, 2012 4:30 PM
To: 'Ehrlich, Kenneth A.'
Cc: eculley@jmbm.com
Subject: RE: Proposed rescheduling (Vulcan v. SGVGC) [MA-Interwoven.FID43878]

Thank you for confirming. I should have the draft joint motion to you either tomorrow or Thursday.

Sincerely,

Scott Franklin Attorney	Direct: (562) 216-4474 Main: (562) 216-4444 Fax: (562) 216-4445 Email: SFranklin@michellawyers.com Web: www.michellawyers.com
MICHEL & ASSOCIATES, P.C. Attorneys at Law Environmental Law, Tax, Insurance, Employment Law, Civil Litigation, Criminal Defense	180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802

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From: Ehrlich, Kenneth A. [<mailto:KAE@JMBM.com>]
Sent: Tuesday, July 24, 2012 4:28 PM
To: Scott Franklin; Culley, Elizabeth
Subject: RE: Proposed rescheduling (Vulcan v. SGVGC) [MA-Interwoven.FID32202]

Looks fine.

From: Scott Franklin [<mailto:SFranklin@michellawyers.com>]
Sent: Tuesday, July 24, 2012 3:59 PM
To: Culley, Elizabeth
Cc: Ehrlich, Kenneth A.
Subject: Proposed rescheduling (Vulcan v. SGVGC) [MA-Interwoven.FID32202]

Ms. Culley:

have run the time calculations and locked in a MTC hearing date (October 2, 2012), and it looks like the trial date Mr. Ehrlich suggested (March 4, 2012) will work. If we follow the schedule below, it should allow Vulcan the 4 week extension that was requested in light of your and Mr. Ehrlich's upcoming trial commitments.

- 08/22/12 (production deadline for further response re: SI Set 1, FI Set 1, POD Set 1, and RFA Set 1)
- 10/02/12 (hearing re: MTC further responses re: SI Set 1, FI Set 1, POD Set 1, and RFA Set 1, if needed)
- 11/12/12 (approximate deadline for filing MSJs, based on proposed 03/04/13 trial date)(the actual deadline will depend on the MSJ hearing date actually selected by the Court)
- 03/04/13 (trial)

I want to make sure Vulcan agrees to the foregoing schedule before I draft the joint motion to extend our trial date, which I plan to send to you this week. Because of the Court's backlog on noticed hearing dates, I will have to go in ex parte to shorten time, or else this will all be for naught, as the MSJ filing deadline will occur well before our motion to extend gets heard.

Also, please confirm that SGVGC has an extension regarding the filing of MTCs re: response re: SI Set 1, FI Set 1, POD Set 1, and RFA Set 1 to September 11, 2012.

Thank you,

Scott Franklin Attorney	Direct: (562) 216-4474 Main: (562) 216-4444 Fax: (562) 216-4445 Email: SFranklin@michellawyers.com Web: www.michellawyers.com
MICHEL & ASSOCIATES, P.C. Attorneys at Law Environmental • Land Use • Taxation • Employment Law Civil Litigation • Criminal Defense	180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802

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EXHIBIT 5

Scott Franklin

From: Scott Franklin
Sent: Friday, August 17, 2012 9:03 AM
To: 'Culley, Elizabeth'
Subject: RE: Proposed rescheduling (Vulcan v. SGVGC) [MA-Interwoven.FID43878]

Ms. Culley:

We agree to an additional week, further responses are now due August 29, 2012. Please send courtesy copies of the response documents in Word or Word Perfect by email on the 29th.

Based on the insufficient and evasive discovery responses provided the last time my office agreed to a response extension in this case, I am compelled state that this extension is being granted on the express condition that good faith and non-evasive further responses will be provided.

Thank you,

Scott Franklin Attorney	Direct: (562) 216-4474 Main: (562) 216-4444 Fax: (562) 216-4445 Email: SFranklin@michellawyers.com Web: www.michellawyers.com
MICHEL & ASSOCIATES, P.C. Attorneys at Law Environmental Land Use Litigation Employment Law Civil Litigation Criminal Defense	180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802

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From: Culley, Elizabeth [mailto:ECulley@JMBM.com]
Sent: Thursday, August 16, 2012 4:57 PM
To: Scott Franklin
Subject: Re: Proposed rescheduling (Vulcan v. SGVGC) [MA-Interwoven.FID43878]

Thank you. Would you be willing to give us one more week on the discovery? I am having a medical issue.

On Aug 16, 2012, at 4:54 PM, "Scott Franklin" <SFranklin@michellawyers.com> wrote:

Ms. Culley:

The further responses are due August 22, 2012 (see below). I just checked with my assistant, and the stipulation was filed August 2, 2012, but we have not yet received a conformed copy. I will send one when we get it.

Sincerely,

EXHIBIT 6

1 JEFFER MANGELS BUTLER & MITCHELL LLP
KENNETH A. EHRLICH (Bar No. 150570)
2 KEhrlich@jmbm.com
ELIZABETH A. CULLEY (Bar No. 258250)
3 ECulley@jmbm.com
1900 Avenue of the Stars, Seventh Floor
4 Los Angeles, California 90067-4308
Telephone: (310) 203-8080
5 Facsimile: (310) 203-0567

6 Attorneys for Plaintiff CALMAT CO. dba VULCAN
MATERIALS COMPANY, WESTERN DIVISION
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
10

11 CALMAT CO. dba VULCAN MATERIALS
12 COMPANY, WESTERN DIVISION, a
Delaware Corporation,

13 Plaintiff,

14 v.

15 SAN GABRIEL VALLEY GUN CLUB, a non-
16 profit California Corporation; and DOES 1-
1000, inclusive,

17 Defendants.
18
19
20
21
22

CASE NO. KC062582J

**SUPPLEMENTAL RESPONSES TO
REQUESTS FOR FORM
INTERROGATORIES, SET ONE,
PROPOUNDED ON PLAINTIFF VULCAN
MATERIALS COMPANY**

23
24 PROPOUNDING PARTY: DEFENDANT SAN GABRIEL VALLEY GUN CLUB

25 RESPONDING PARTY: PLAINTIFF VULCAN MATERIALS COMPANY

26 SET NO.: ONE
27
28

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1 Pursuant to Code of Civil Procedure Section 2030.010 *et seq.*, Plaintiff Vulcan
2 Materials Company, Western Division ("Vulcan") hereby responds and objects to Defendant San
3 Gabriel Valley Gun Club's ("Gun Club") First Set of Form Interrogatories.

4 **PRELIMINARY STATEMENT**

5 A. These responses are made solely for the purpose of, and in relation to, this
6 action. Each answer is given subject to all appropriate objections (including but not limited to
7 objections concerning competency, relevancy, materiality, propriety and admissibility) which would
8 require the exclusion of any statement contained herein if made by a witness present and testifying
9 in court. All such objections and ground therefore are reserved and may be interposed at the time of
10 trial.

11 B. Vulcan is pursuing its investigation and analysis of the facts and law relating
12 to this case and has not completed discovery or its preparation for trial. Therefore, the responses set
13 forth herein are given without prejudice to Vulcan's right to produce evidence of any subsequent
14 facts or interpretations thereof, or to add to, modify or otherwise change or amend the responses
15 herein. The information hereinafter set forth is true and correct to Vulcan's best knowledge as of
16 this date, and is subject to correction for inadvertent errors, mistakes or omissions if any such errors,
17 mistakes or omissions should be found to exist. These responses are based upon records and
18 information presently available to Vulcan. References in a response to a preceding or subsequent
19 response incorporate both the information and objections set forth in the referenced response.

20 C. Vulcan reserves the right to introduce at trial any and all evidence heretofore
21 or hereinafter produced by the parties in this action or by any third party that supports or tends to
22 support Vulcan's contentions at trial or in support of or in opposition to any motion in this case. To
23 the extent that Vulcan identifies evidence or documents in response to a request herein, she does so
24 without prejudice to establish at a later date any additional facts that may be discovered as a result
25 of any additional investigation and discovery.

26 D. Any response contained herein does not constitute a waiver of any applicable
27 privilege, nor does any response contained herein waive any objection, including relevancy, to the
28 admission of such responses or responsive documents in evidence.

JAMES H. MITCHELL
Butler & Mitchell LLP
JMBM

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1 E. Except for explicit facts admitted herein, no incidental or implied admissions
2 of any nature whatsoever are intended hereby, are implied, or should be inferred. The fact that a
3 request has been responded to herein should not be taken as an admission, or a concession of the
4 existence of any facts set forth or assumed by the request, or that such response constitutes evidence
5 of any fact. In addition, the fact that Vulcan has responded in part or all to any request is not
6 intended and shall not be construed to be a waiver by Vulcan of all or any part of any objection to
7 any request.

8 **GENERAL OBJECTIONS**

9 The following general objections ("General Objections") apply to each individual
10 interrogatory propounded by Plaintiff and are incorporated into each response thereto by Vulcan:

- 11 1. Vulcan objects generally to each form interrogatory to the extent that the request
12 seeks information that is neither relevant to the subject matter of this action nor reasonably
13 calculated to lead to the discovery of admissible evidence.
- 14 2. Vulcan objects generally to each form interrogatory insofar as the request may be
15 construed as calling for information and/or the identification of documents which is subject to the
16 rights of privacy and/or confidentiality of third parties. Vulcan will not reproduce such information
17 and/or documents.
- 18 3. Vulcan objects generally to each form interrogatory to the extent that it exceeds the
19 scope of permissible discovery under Code of Civil Procedure section 2017.010, including but not
20 limited to, information related to a subject matter that is not relevant or at issue in this action.
- 21 4. Vulcan objects and responds on the basis of her understanding and interpretation of
22 each request. If Plaintiff understands or interprets any one or part of a request differently, Vulcan
23 reserves the right to supplement any of these responses, either with additional objections or
24 otherwise.
- 25 5. Vulcan objects to each form interrogatory to the extent that it calls for information
26 that is subject to the attorney-client privilege, the attorney work-product doctrine or any other
27 privilege, immunity or protection available under law. Inadvertent disclosure of any information
28 subject to any applicable privilege or doctrine, including, but not limited to, the attorney-client

1 privilege and the work-product doctrine, is not intended to be, and shall not operate as, a waiver of
2 such privilege or doctrine, in whole or in part. Nor is any such inadvertent disclosure intended to
3 be, nor shall it constitute, a waiver of the right to object to any use of such information.

4 6. It should not be inferred from the form or substance of any objection or response that
5 Vulcan agrees with Plaintiff's characterization of the facts in any request.

6 7. Vulcan objects generally to each form interrogatory to the extent that it misconstrues
7 and/or misrepresents Vulcan's obligations pursuant to the Code of Civil Procedure or purports to
8 impose obligations different from or in addition to those provided under the Code of Civil
9 Procedure. Vulcan shall respond to the requests in accordance with its obligations under the Code
10 of Civil Procedure and not otherwise.

11 8. Vulcan objects generally to each form interrogatory insofar as each form
12 interrogatory is vague, ambiguous or overbroad as to time.

13 9. Vulcan objects generally to each individual form interrogatory relative to documents
14 on the grounds and to the extent it seeks information relative to documents protected by the
15 attorney-client privilege, the work-product doctrine or any other applicable privilege.

16 10. Subject to the foregoing Preliminary Statement and General Objections, which are
17 hereby incorporated by reference into each individual response below; and without waiving same,
18 Vulcan responds as follows to the individual form interrogatories.

19
20 **RESPONSES TO FORM INTERROGATORIES**

21 **INTERROGATORY NO. 9.1:**

22 Are there any other damages that you attribute to the **INCIDENT**? If so, for each
23 item of damage state:

- 24 (a) the nature;
25 (b) the date it occurred;
26 (c) the amount; and
27 (d) the name, **ADDRESS**, and telephone number of each **PERSON** to whom an
28 obligation was incurred.

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1 RESPONSE TO INTERROGATORY NO. 9.1:

2 In addition to the General Objections set forth above, Vulcan objects to this
3 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
4 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
5 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
6 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
7 foregoing objections and the Preliminary Statement and General Objections set forth above and
8 incorporated herein, and without waiving the same, Vulcan responds as follows:

9 Not other than stated in the Complaint.

10 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9.1:

11 Subject to and without waiving the foregoing objections, Vulcan further responds as
12 follows:

13 (a) Nature of Damages: (1) Damages associated with the costs incurred for
14 investigating, assessing, monitoring and remediating the Contamination; (2) loss of property value
15 incurred due to the existence of the Contamination including but not limited to, loss of permanent
16 value as caused by the stigma of environmental contamination; (3) loss of future rent; (4) costs to
17 repair and restore the Azusa Property and neighboring properties to proper condition; (5) statutory
18 costs; (6) punitive and exemplary damages; (7) treble damages; and (8) attorney's fees and costs of
19 suit.

20 (b) Approximately January 1947 to November 2006

21 (c) A minimum of \$6,720,000.00

22 (d) Calmat Co. dba Vulcan Materials Company, Western Division, a Delaware
23 Corporation who can be contacted through the above-captioned counsel.

24
25 INTERROGATORY NO. 9.2:

26 Do any **DOCUMENTS** support the existence or amount of any item of damages
27 claimed in interrogatory 9.1? If so, state the name, **ADDRESS**, and telephone number of the
28 **PERSON** who has each **DOCUMENT**.

1 RESPONSE TO INTERROGATORY NO. 9.2:

2 In addition to the General Objections set forth above, Vulcan objects to this
3 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
4 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
5 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
6 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
7 foregoing objections and the Preliminary Statement and General Objections set forth above and
8 incorporated herein, and without waiving the same, Vulcan responds as follows:

9 Not Applicable.

10 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9.2:

11 Subject to and without waiving the foregoing objections, Vulcan further responses as
12 follows:

13 The following Lease Agreements which are in the possession of Vulcan who can be
14 contacted through the above-captioned counsel:

- 15 1947 Lease - January 1, 1947 - August 31, 1950
- 16 1950 Lease - August 31, 1950 - January 1, 1958
- 17 1958 Lease - January 1, 1958 - August 31, 1961
- 18 1961 Lease - September 1, 1961 - December 10, 1970
- 19 1970 Lease - December 11, 1970 - December 11, 1977
- 20 1977 Lease - December 11, 1977 - February 3, 1988
- 21 1988 Lease - February 4, 1988 - May 19, 1992
- 22 1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006

23
24 INTERROGATORY NO. 12.1:

25 State the name, **ADDRESS**, and telephone number of each individual:

- 26 (a) who witnessed the **INCIDENT** or the events occurring immediately before
- 27 or after the **INCIDENT**;
- 28 (b) who made any statement at the scene of the **INCIDENT**;

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1 (c) who heard any statements made about the **INCIDENT** by any individual at
2 the scene; and

3 (d) who **YOU OR ANYONE ACTING ON YOUR BEHALF** claim has
4 knowledge of the **INCIDENT** (except for expert witnesses covered by Code of Civil Procedure
5 section 2034).

6 RESPONSE TO INTERROGATORY NO. 12.1:

7 In addition to the General Objections set forth above, Vulcan objects to this
8 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
9 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
10 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
11 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
12 foregoing objections and the Preliminary Statement and General Objections set forth above and
13 incorporated herein, and without waiving the same, Vulcan responds as follows:

14 The percipient witnesses deposed in the federal litigation that preceded the instant
15 state court litigation viewed a portion of the Gun Club's contaminating activities.

16 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12.1:

- 17 1. Anderson, Brian
18 Vulcan Materials Company
19 500 North Brand Blvd.
20 Glendale, CA 91203
- 21 2. Armato, John - can be contacted through Defendant's counsel
- 22 3. Bajsarowicz, Wojciech
23 c/o Haley & Aldrich
24 2033 North Main Street, Suite 309
25 Walnut Creek, CA 94596
- 26 4. Bock, Herb
27 2331 Freeborn Street
28 Bradbury, California 91008
5. Booher, Carl
4423 Rosemead Blvd., #2
Rosemead, CA 91770

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- 1 6. Mr. Claude Preston Cowan
2 18014 Talisman St.
3 Hesperia, CA 92345
4 (760) 885-6774
- 5 7. Davis, Tom
6 Davis Consulting Services
7 P.O. Box 4183
8 Orange, California 92863
- 9 8. Brian Ferris
10 Vice President, Assistant General Counsel
11 Vulcan Materials Company
12 500 North Brand Blvd.
13 Glendale, CA 91203
- 14 9. Mr. Jim Gore
15 Permitting Manager
16 Vulcan Materials
17 500 North Brand Blvd.
18 Glendale, CA 91203
19 Phone: (323) 474-3231
- 20 10. Hoenig, Dwight
21 3511 La Mesa
22 Hayward, California
- 23 11. Hoffman, Lea
24 1630 S. Baranca Ave., #114
25 Glendora, CA 91740
- 26 12. Tom Jenkins
27 329 Auburn Way
28 Claremont, CA
Phone: (909) 626-8796
13. Michael Linton
VP, Properties and Land Development
Vulcan Materials
500 North Brand Blvd.
Glendale, CA 91203
Phone: (323) 474-3202
14. Lukkarila, Walter
14307 Flathead Road
Apple Valley, CA 92307-5794

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15. Sheri Ortega
Vulcan Materials Company, Western Division
500 North Brand Blvd.
Glendale 91203
Phone: (323) 474-3607

16. Phillips, Richard
45866 Shasta Place
El Monte, California

17. Sheedy, Thomas
5275 La Canada Boulevard
La Canada-Flintridge, CA 91011

18. Smith, David
1980 Lorain Road
San Marino, CA 91108

~~19.~~ Woodridge, Fred
Lead Reclamation Services
8482 Santos Dumont Way
Brownsville, California 95919
530-675-9088

INTERROGATORY NO. 12.4:

Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any
photographs, films, or videotapes depicting any place, object, or individual concerning the
INCIDENT or plaintiff's injuries? If so, state:

- (a) the number of photographs or feet of film or videotape;
- (b) the places, objects, or persons photographed, filmed, or videotaped;
- (c) the date the photographs, films, or videotapes were taken;
- (d) the name, **ADDRESS**, and telephone number of the individual taking the
photographs, films, or videotapes; and
- (e) the name, **ADDRESS**, and telephone number of each **PERSON** who has the
original or a copy of the photographs, films, or videotapes.

RESPONSE TO INTERROGATORY NO. 12.4:

In addition to the General Objections set forth above, Vulcan objects to this

1 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
2 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
3 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
4 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
5 foregoing objections and the Preliminary Statement and General Objections set forth above and
6 incorporated herein, and without waiving the same, Vulcan responds as follows:

7 None that have not already been shared with Defendant.

8 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12.4:**

9 Subject to and without waiving the foregoing objections, Vulcan further responds as
10 follows:

11 (a)

- 12 VUL 160- VUL 163
- 13 VUL 1244- VUL 1256
- 14 VUL 2182- VUL 2185
- 15 VUL 2227- VUL 2231
- 16 VUL 2304
- 17 VUL 2307
- 18 VUL 2310- VUL 2321
- 19 VUL 2327- VUL 2336
- 20 VUL 2339- VUL 2342
- 21 VUL 2350- VUL 2351
- 22 VUL 2432- VUL 2433
- 23 VUL 2447
- 24 VUL 2569
- 25 VUL 2574
- 26 VUL 2715
- 27 VUL 2730- VUL 2731
- 28 VUL 2758
- VUL 2855- VUL 2858
- VUL 2944- VUL 2946
- VUL 3194
- VUL 3197
- VUL 3230
- VUL 3241- VUL 3256
- VUL 3285
- VUL 3302
- VUL 3328
- VUL 3401
- VUL 3408
- VUL 3413- VUL 3415

- 1 VUL 3475
- 2 VUL 3498
- 3 VUL 3643- VUL 3644
- 4 VUL 3757
- 5 VUL 3949
- 6 VUL 3954
- 7 VUL 3957
- 8 VUL 3960- VUL 3963
- 9 VUL 3973
- 10 VUL 3977
- 11 VUL 4003
- 12 VUL 4026
- 13 VUL 4029
- 14 VUL 4033
- 15 VUL 4071
- 16 VUL 4094
- 17 VUL 4097
- 18 VUL 4101
- 19 ~~VUL 4175~~
- 20 VUL 4179
- 21 VUL 4195
- 22 VUL 4199
- 23 VUL 4206
- 24 VUL 4359
- 25 VUL 4361- VUL 4363
- 26 VUL 4629- VUL 4633
- 27 VUL 4685
- 28 ~~VUL 4748- VUL 4754~~
- 29 VUL 4758- VUL 4760
- 30 VUL 4764- VUL 4769
- 31 VUL 4798- VUL 4800
- 32 VUL 4805- VUL 4807
- 33 VUL 4839- VUL 4841
- 34 VUL 4860- VUL 4861
- 35 (b) The Property
- 36 (c) Unknown
- 37 (d) Unknown
- 38 (e) Plaintiff produced these photographs during the Federal Litigation. Accordingly,
- 39 they are in the possession of both the Plaintiff and Defendant.

27 INTERROGATORY NO. 12.5:

28 Do YOU OR ANYONE ACTING ON YOUR BEHALF know of any diagram,

1 reproduction, or model of any place or thing (except for items developed by expert witnesses
2 covered by Code of Civil Procedure section 2034) concerning the **INCIDENT**? If so, for each item
3 state:

- 4 (a) the type (i.e., diagram, reproduction, or model);
- 5 (b) the subject matter; and
- 6 (c) the name, **ADDRESS**, and telephone number of each **PERSON** who has it.

7 RESPONSE TO INTERROGATORY NO. 12.5:

8 In addition to the General Objections set forth above, Vulcan objects to this
9 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
10 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
11 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
12 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
13 foregoing objections and the Preliminary Statement and General Objections set forth above and
14 incorporated herein, and without waiving the same, Vulcan responds as follows:

15 None that have not already been shared with Defendant.

16 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12.5:

17 Subject to and without waiving the foregoing objections, Vulcan further responds as
18 follows:

19 No.

20
21 INTERROGATORY NO. 12.6:

22 Was a report made by any **PERSON** concerning the **INCIDENT**? If so, state:

- 23 (a) the name, title, identification number, and employer of the **PERSON** who
24 made the report;
- 25 (b) the date and type of report made;
- 26 (c) the name, **ADDRESS**, and telephone number of the **PERSON** for whom the
27 report was made; and
- 28 (d) the name, **ADDRESS**, and telephone number of the **PERSON** who has the

1 original or a copy of the report.

2 RESPONSE TO INTERROGATORY NO. 12.6:

3 In addition to the General Objections set forth above, Vulcan objects to this
4 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
5 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
6 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
7 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
8 foregoing objections and the Preliminary Statement and General Objections set forth above and
9 incorporated herein, and without waiving the same, Vulcan responds as follows:

10 None that have not already been shared with Defendant.

11 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12.6:

12 Subject to and without waiving the foregoing objections, Vulcan further responds as
13 follows:

14 Yes.

15 (1) (a) David Liu, PhD; ENVIRON International Corporation

16 (b) November 15, 2010; Expert Witness Report of Evaluation of Remediation

17 Alternatives and Costs

18 (c) Vulcan; can be contacted through the above-captioned counsel

19 (d) The above-captioned counsel and Defendant's counsel

20
21 (2) (a) Dr. Rudolph Von Burg, PhD; President and Founder EnTox & Associates

22 (b) November 2010; Expert Witness Report

23 (c) Vulcan; can be contacted through the above-captioned counsel

24 (d) The above-captioned counsel and Defendant's counsel

25
26 (3) (a) Mark Riches P.GP; Vice President GEOVision geophysical services

27 (b) September 15, 2010; Expert Witness Report Geophysical Investigation

28 (c) Vulcan; can be contacted through the above-captioned counsel

1 (d) The above-captioned counsel and Defendant's counsel

2
3 INTERROGATORY NO. 12.7:

4 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** inspected the scene of
5 the **INCIDENT**? If so, for each inspection state:

6 (a) the name, **ADDRESS**, and telephone number of the individual making the
7 inspection (except for expert witnesses covered by Code of Civil Procedure section 2034); and

8 (b) the date of the inspection.

9 RESPONSE TO INTERROGATORY NO. 12.7:

10 In addition to the General Objections set forth above, Vulcan objects to this
11 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
12 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
13 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
14 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
15 foregoing objections and the Preliminary Statement and General Objections set forth above and
16 incorporated herein, and without waiving the same, Vulcan responds as follows:

17 None that have not already been shared with Defendant.

18 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12.7:

19 Subject to and without waiving the foregoing objections, Vulcan further responds as
20 follows:

21 Aside from the expert witnesses listed above and aside from the above captioned
22 counsel, Brian Anderson and Charles St. John have inspected the Property. The specific dates of
23 the inspections are unknown, but the inspections took place sometime after 2004.

24
25 INTERROGATORY NO. 17.1:

26 Is your response to each request for admission served with these interrogatories an
27 unqualified admission? If not, for each response that is not an unqualified admission:

28 (a) state the number of the request;

- 1 (b) state all facts upon which you base your response;
- 2 (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS**
- 3 who have knowledge of those facts; and
- 4 (d) identify all **DOCUMENTS** and other tangible things that support your
- 5 response and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each
- 6 **DOCUMENT** or thing.

7 RESPONSE TO INTERROGATORY NO. 17.1:

8 In addition to the General Objections set forth above, Vulcan objects to this
 9 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
 10 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
 11 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
 12 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
 13 foregoing objections and the Preliminary Statement and General Objections set forth above and
 14 incorporated herein, and without waiving the same, Vulcan responds as follows:

15 **Request for Admission 1:** The leases in effect are as follows:

- 16 1947 Lease - January 1, 1947 - August 31, 1950
- 17 1950 Lease - August 31, 1950 - January 1, 1958
- 18 1958 Lease - January 1, 1958 - August 31, 1961
- 19 1961 Lease - September 1, 1961 - December 10, 1970
- 20 1970 Lease - December 11, 1970 - December 11, 1977
- 21 1977 Lease - December 11, 1977 - February 3, 1988
- 22 1988 Lease - February 4, 1988 - May 19, 1992
- 23 1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006
- 24 All of which are in the possession of both parties and are attached to the Complaint.

25 **Request for Admission 2:** The leases in effect are as follows:

- 26 1947 Lease - January 1, 1947 - August 31, 1950
- 27 1950 Lease - August 31, 1950 - January 1, 1958
- 28 1958 Lease - January 1, 1958 - August 31, 1961

1 1961 Lease - September 1, 1961 - December 10, 1970
2 1970 Lease - December 11, 1970 - December 11, 1977
3 1977 Lease - December 11, 1977 - February 3, 1988
4 1988 Lease - February 4, 1988 - May 19, 1992
5 1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006
6 All of which are in the possession of both parties and are attached to the Complaint.

7 **Request for Admission 3:** Vulcan and its predecessors-in-interest have owned the
8 Azusa property since prior to January 1947 and were aware of its condition by virtue of their
9 ownership.

10 **Request for Admission 4:** The Azusa property was not used as a "shooting range"
11 as Vulcan understands this phrase, prior to the first written lease between Vulcan and the Gun Club
12 in 1947.

13 **Request for Admission 5:** Vulcan does not claim that the Gun Club made "no
14 attempt" to clean up the property between December 31, 1947 and November 1, 2006. Rather
15 Vulcan contends that the Gun Club did not clean up the property as required pursuant to the terms
16 of the Lease Agreements and as required by applicable law.

17 **Request for Admission 6:** Vulcan informed the Gun Club on multiple occasions
18 that the presence of "Spent Ammunition" could cause damage to the Property. At a minimum, the
19 Gun Club was on notice of such information by virtue of the Lease Agreements which are in the
20 possession of the Gun Club and attached to the Complaint.

21 **Request for Admission 7:** Vulcan informed the Gun Club that the presence of
22 "Spent Ammunition" at the Property was causing damage to the Property on multiple occasions. At
23 a minimum, the Gun Club was on notice of such information by virtue of the Lease Agreements
24 which are in the possession of the Gun Club and attached to the Complaint.

25 **Request for Admission 8:** Vulcan told the Gun Club that the presence of lead from
26 bullets shot at the Property was causing damage to the Property on multiple occasions. At a
27 minimum, the Gun Club was on notice of such information by virtue of the Lease Agreements
28 which are in the possession of the Gun Club and attached to the Complaint.

1 **Request for Admission 9:** Vulcan told the Gun Club that lead bullets shot at the
2 Property could cause damage to the Property on multiple occasions. At a minimum, the Gun Club
3 was on notice of such information by virtue of the Lease Agreements which are in the possession of
4 the Gun Club and attached to the Complaint.

5 **Request for Admission 10:** At a minimum, the Lease Agreements put the Gun Club
6 on notice, prior to January 1, 2003, that they were required to remove "Spent Ammunition" from the
7 Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste
8 or nuisance on the property and from interfering with the use and enjoyment of neighboring
9 properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws,
10 including environmental laws, and (3) required that the Gun Club maintain the property in good
11 condition and repair and, upon termination of the lease, return the Final Leasehold Property in an
12 orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club
13 and are attached to the Complaint.

14 **Request for Admission 11:** At a minimum, The Lease Agreements put the Gun
15 Club on notice, prior to January 1, 2003, that they were required to remove "lead" from the
16 Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste
17 or nuisance on the property and from interfering with the use and enjoyment of neighboring
18 properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws,
19 including environmental laws, and (3) required that the Gun Club maintain the property in good
20 condition and repair and, upon termination of the lease, return the Final Leasehold Property in an
21 orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club
22 and are attached to the Complaint.

23 **Request for Admission 12:** The Lease Agreements put the Gun Club on notice,
24 prior to 2004, that they were specifically required to remove "Spent Ammunition" from the
25 Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste
26 or nuisance on the property and from interfering with the use and enjoyment of neighboring
27 properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws,
28 including environmental laws, and (3) required that the Gun Club maintain the property in good

1 condition and repair and, upon termination of the lease, return the Final Leasehold Property in an
2 orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club
3 and are attached to the Complaint.

4 **Request for Admission 13:** The Lease Agreements put the Gun Club on notice,
5 prior to 2004, that they were specifically required to remove "lead" from the Property. Specifically,
6 the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the
7 property and from interfering with the use and enjoyment of neighboring properties, (2) obligated
8 the Gun Club to comply with all applicable federal, state and local laws, including environmental
9 laws, and (3) required that the Gun Club maintain the property in good condition and repair and,
10 upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary
11 condition. The Lease Agreements are in the possession of the Gun Club and are attached to the
12 Complaint.

13 **Request for Admission 14:** The Lease Agreements put the Gun Club on notice,
14 prior to 2004, that they were specifically required to remove "Spent Ammunition" from the
15 Property. Specifically, the Lease Agreements (1) precluded the Gun Club from committing waste
16 or nuisance on the property and from interfering with the use and enjoyment of neighboring
17 properties, (2) obligated the Gun Club to comply with all applicable federal, state and local laws,
18 including environmental laws, and (3) required that the Gun Club maintain the property in good
19 condition and repair and, upon termination of the lease, return the Final Leasehold Property in an
20 orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun Club
21 and are attached to the Complaint.

22 **Request for Admission 15:** The Lease Agreements put the Gun Club on notice,
23 prior to 2004, that they were specifically required to remove "lead" from the Property. Specifically,
24 the Lease Agreements (1) precluded the Gun Club from committing waste or nuisance on the
25 property and from interfering with the use and enjoyment of neighboring properties, (2) obligated
26 the Gun Club to comply with all applicable federal, state and local laws, including environmental
27 laws, and (3) required that the Gun Club maintain the property in good condition and repair and,
28 upon termination of the lease, return the Final Leasehold Property in an orderly, safe and sanitary

1 condition. The Lease Agreements are in the possession of the Gun Club and are attached to the
2 Complaint.

3 **Request for Admission 16:** The Lease Agreements include a provision specifically
4 dealing with "Spent Ammunition." Specifically, the Lease Agreements (1) precluded the Gun Club
5 from committing waste or nuisance on the property and from interfering with the use and enjoyment
6 of neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state
7 and local laws, including environmental laws, and (3) required that the Gun Club maintain the
8 property in good condition and repair and, upon termination of the lease, return the Final Leasehold
9 Property in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of
10 the Gun Club and are attached to the Complaint.

11 **Request for Admission 17:** The Lease Agreements include a provision specifically
12 dealing with "lead." Specifically, the Lease Agreements (1) precluded the Gun Club from
13 committing waste or nuisance on the property and from interfering with the use and enjoyment of
14 neighboring properties, (2) obligated the Gun Club to comply with all applicable federal, state and
15 local laws, including environmental laws, and (3) required that the Gun Club maintain the property
16 in good condition and repair and, upon termination of the lease, return the Final Leasehold Property
17 in an orderly, safe and sanitary condition. The Lease Agreements are in the possession of the Gun
18 Club and are attached to the Complaint.

19 **Request for Admission 30:** At no time prior to May 20, 1992 did Vulcan have any
20 knowledge that any purported "Waste Material" had resulted in the burial of lead bullets.

21 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 17.1:**

22 Subject to and without waiving the foregoing responses, Vulcan further responds as
23 follows:

24 **Request for Admission 1:**

25 (b) The leases (the "Leases") which were in effect are as follows:

26 1947 Lease - January 1, 1947 - August 31, 1950

27 1950 Lease - August 31, 1950 - January 1, 1958

28 1958 Lease - January 1, 1958 - August 31, 1961

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1961 Lease - September 1, 1961 - December 10, 1970
1970 Lease - December 11, 1970 - December 11, 1977
1977 Lease - December 11, 1977 - February 3, 1988
1988 Lease - February 4, 1988 - May 19, 1992
1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006

Although the 1977 Lease states that it terminates on December 11, 1987, the Club remained in possession pursuant to, at a minimum, the hold over provision included in 1977 Lease. Complaint Ex. F, § 13.

(c) Brian Ferris - can be contacted through the above-captioned counsel

Herb Bock
2331 Freeborn Street
Bradbury, California 91008

Richard Phillips
45866 Shasta Place
El Monte, California

John Armato - can be contacted through Defendant's counsel
Brian Anderson - can be contacted through the above-captioned counsel

(d) All of these lease agreements are in the possession of both parties and are attached to the Complaint.

Request for Admission 2:

(b) The leases in effect are as follows:
1947 Lease - January 1, 1947 - August 31, 1950
1950 Lease - August 31, 1950 - January 1, 1958
1958 Lease - January 1, 1958 - August 31, 1961
1961 Lease - September 1, 1961 - December 10, 1970
1970 Lease - December 11, 1970 - December 11, 1977
1977 Lease - December 11, 1977 - February 3, 1988
1988 Lease - February 4, 1988 - May 19, 1992

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1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006

Although the 1977 Lease states that it terminates on December 11, 1987, the Club remained in possession pursuant to, at a minimum, the hold over provision included in 1977 Lease. Complaint Ex. F, § 13. Accordingly, the 1977 Lease addressed this time period.

(c) Brian Ferris - can be contacted through the above-captioned counsel

Herb Bock
2331 Freeborn Street
Bradbury, California 91008

Richard Phillips
45866 Shasta Place
El Monte, California

John Armato - can be contacted through Defendant's counsel

Brian Anderson - can be contacted through the above-captioned counsel

(d) All of these lease agreements are in the possession of both parties and are attached to the Complaint.

Request for Admission 3:

(b) Vulcan and its predecessors-in-interest have owned the Azusa property since prior to January 1947 and were and are generally aware of its condition by virtue of their ownership.

(c) Unknown

(d) None

Request for Admission 4:

(b) Although shooting activities may have occurred on the Property prior to the 1947 Lease, the property was not used or run as a formal "shooting range" prior to the first written lease between Vulcan and the Gun Club in 1947.

(c) Unknown

(d) None

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1 **Request for Admission 16:**

2 (b) In the 1992 Draft Lease (Exhibit 4 to the Brian Ferris Deposition) which was
3 transmitted to Robert Carter, Vulcan specifically included a provision specifically referring to spent
4 ammunition and the type of bullets used at the Property. 1992 Draft Lease § 9. Mr. Carter then
5 responded to Vulcan on February 24, 1992 (Exhibit 5 to Brian Ferris Deposition) specifically
6 regarding this provision. On March 5, 1992, Vulcan responded to Mr. Carter regarding this
7 provision. (Exhibit 6 to Brian Ferris Deposition). Then Vulcan and Mr. Carter had a telephone
8 conversation regarding this provision (Exhibit 7 to Brian Ferris Deposition). Ultimately, the Club
9 and Vulcan signed a lease with a modified version of this provision. (Exhibit 8 to Brian Ferris
10 Deposition).

11 (c) Brian Ferris - can be contacted through the above captioned counsel

12 Robert Carter - address unknown

13 Tom Jenkins
14 329 Auburn Way
15 Claremont, CA
16 Phone: (909) 626-8796

17 Tom Davis
18 Davis Consulting Services
19 P.O. Box 4183
20 Orange, California 92863

21 (d) Brian Ferris Deposition Exhibits 4-8.

22 **Request for Admission 17:**

23 (b) In the 1992 Draft Lease (Exhibit 4 to the Brian Ferris Deposition) which was
24 transmitted to Robert Carter, Vulcan specifically included a provision specifically referring to spent
25 ammunition and the type of bullets used at the Property. 1992 Draft Lease § 9. Mr. Carter then
26 responded to Vulcan on February 24, 1992 (Exhibit 5 to Brian Ferris Deposition) specifically
27 regarding this provision. On March 5, 1992, Vulcan responded to Mr. Carter regarding this
28 provision. (Exhibit 6 to Brian Ferris Deposition). Then Vulcan and Mr. Carter had a telephone

1 conversation regarding this provision (Exhibit 7 to Brian Ferris Deposition). Ultimately, the Club
2 and Vulcan signed a lease with a modified version of this provision. (Exhibit 8 to Brian Ferris
3 Deposition).

4 (c) Brian Ferris - can be contacted through the above captioned counsel

5 Robert Carter - address unknown

6 Tom Jenkins
7 329 Auburn Way
8 Claremont, CA
9 Phone: (909) 626-8796

10 Tom Davis
11 Davis Consulting Services
12 P.O. Box 4183
13 Orange, California 92863

14 (d) Brian Ferris Deposition Exhibits 4-8.

15 **Request for Admission 18:**

16 (b) Nothing contractually prohibited Vulcan from entering "the PROPERTY to dump
17 material on the PROPERTY between June 17, 1987 and May 19, 1992."

18 (c) Brian Ferris - can be contacted through the above-captioned counsel

19 Herb Bock
20 2331 Freeborn Street
21 Bradbury, California 91008

22 Richard Phillips
23 45866 Shasta Place
24 El Monte, California

25 John Armato - can be contacted through Defendant's counsel

26 Brian Anderson - can be contacted through the above-captioned counsel

27 (d) The documents supporting Vulcan's response to this Request for Admission are
28 each of the Leases (as previously defined) at issue in this Complaint.

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Request for Admission 30:

(b) After conducting a reasonable and diligent inquiry, Vulcan has no evidence indicating that it was aware, prior to May 20, 1992, that the placement of WASTE MATERIAL at the Property had resulted in the burial of lead bullets.

(c) None

(d) None

Request for Admission 52:

(b) Herb Bock testified at his deposition in the Federal Litigation that during the negotiation of the 1992 lease, the Gun Club knew that the DRAFT LEASE PROVISION could address SPENT AMMUNITION and that the Gun Club "did not want Vulcan to tell [it] . . . what type of ammunition [it] could use on the range." Bock Depo at 56:15-20.

(c) Herb Bock
2331 Freeborn Street
Bradbury, California 91008

(d) Bock Deposition transcript which is in the possession of the Club.

Request for Admission 53:

(b) Herb Bock testified at his deposition in the Federal Litigation that during the negotiation of the 1992 lease, the Gun Club knew that the DRAFT LEASE PROVISION could address lead bullets that had been fired at the Property and that the Gun Club "did not want Vulcan to tell [it] . . . what type of ammunition [it] could use on the range." Bock Depo at 56:15-20.

(c) Herb Bock
2331 Freeborn Street
Bradbury, California 91008

(d) Bock Deposition transcript which is in the possession of the Club.

Request for Admission 54:

(b) Herb Bock testified at his deposition in the Federal Litigation that during the

1 negotiation of the 1992 lease, the Gun Club knew that the DRAFT LEASE PROVISION could
2 address SPENT AMMUNITION and that the Gun Club "did not want Vulcan to tell [it] . . . what
3 type of ammunition [it] could use on the range." Bock Depo at 56:15-20.

4 (c) Herb Bock
2331 Freeborn Street
5 Bradbury, California 91008

6 (d) Bock Deposition transcript which is in the possession of the Club.
7

8 **Request for Admission 55:**

- 9 (b) Vulcan does not have a current appraisal of the Property.
- 10 (c) Brian Ferris - can be contacted through the above captioned counsel
- 11 Charles St. John - can be contacted through the above captioned counsel
- 12 (d) None

13
14 **Request for Admission 60:**

15 (b) Thomas Sheedy testified at his deposition in the Federal Litigation that after
16 ~~Vulcan made the decision to create the WASTE PILE, he had a discussion with Rick Phillips at the~~
17 Gun Club about the creation of the WASTE PILE, including where it would be placed and the
18 logistics of creating it. Sheedy Depo. At 47:10-48:6.

19 (c) Thomas Sheedy
5275 La Canada Boulevard
20 La Canada-Flintridge, CA 91011

21 Rick Phillips
22 45866 Shasta Place
23 El Monte, California

24 (d) Sheedy Deposition transcript which is in the possession of the Club.
25

26 **Request for Admission 79:**

27 (b) In the 1992 Draft Lease (Exhibit 4 to the Brian Ferris Deposition) which was
28 transmitted to Robert Carter, Vulcan specifically included a provision specifically referring to spent

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1 ammunition and the type of bullets used at the Property. 1992 Draft Lease § 9. Mr. Carter then
2 responded to Vulcan on February 24, 1992 (Exhibit 5 to Brian Ferris Deposition) specifically
3 regarding this provision. On March 5, 1992, Vulcan responded to Mr. Carter regarding this
4 provision. (Exhibit 6 to Brian Ferris Deposition). Then Vulcan and Mr. Carter had a telephone
5 conversation regarding this provision (Exhibit 7 to Brian Ferris Deposition). Ultimately, the Club
6 and Vulcan signed a lease with a modified version of this provision. (Exhibit 8 to Brian Ferris
7 Deposition).

8 (c) Brain Ferris - can be contacted through the above captioned counsel

9 Robert Carter - address unknown

10 Tom Jenkins
11 329 Auburn Way
12 Claremont, CA
13 Phone: (909) 626-8796

14 Tom Davis
15 Davis Consulting Services
16 P.O. Box 4183
17 Orange, California 92863

18 (d) Brian Ferris Deposition Exhibits 4-8.

19 **Request for Admission 80:**

20 (b) In the 1992 Draft Lease (Exhibit 4 to the Brian Ferris Deposition) which was
21 transmitted to Robert Carter, Vulcan specifically included a provision specifically referring to spent
22 ammunition and the type of bullets used at the Property. 1992 Draft Lease § 9. Mr. Carter then
23 responded to Vulcan on February 24, 1992 (Exhibit 5 to Brian Ferris Deposition) specifically
24 regarding this provision. On March 5, 1992, Vulcan responded to Mr. Carter regarding this
25 provision. (Exhibit 6 to Brian Ferris Deposition). Then Vulcan and Mr. Carter had a telephone
26 conversation regarding this provision (Exhibit 7 to Brian Ferris Deposition). Ultimately, the Club
27 and Vulcan signed a lease with a modified version of this provision. (Exhibit 8 to Brian Ferris
28 Deposition).

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1 (c) Brian Ferris - can be contacted through the above captioned counsel

2 Robert Carter - address unknown

3 Tom Jenkins
4 329 Auburn Way
5 Claremont, CA
6 Phone: (909) 626-8796

7 Tom Davis
8 Davis Consulting Services
9 P.O. Box 4183
10 Orange, California 92863

11 (d) Brian Ferris Deposition Exhibits 4-8.

12 **Request for Admission 89:**

13 (b) The leases (the "Leases") which were in effect are as follows:

14 1947 Lease - January 1, 1947 - August 31, 1950

15 1950 Lease - August 31, 1950 - January 1, 1958

16 1958 Lease - January 1, 1958 - August 31, 1961

17 1961 Lease - September 1, 1961 - December 10, 1970

18 1970 Lease - December 11, 1970 - December 11, 1977

19 1977 Lease - December 11, 1977 - February 3, 1988

20 1988 Lease - February 4, 1988 - May 19, 1992

21 1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006

22 Although the 1977 Lease states that it terminates on December 11, 1987, the Club
23 remained in possession pursuant to, at a minimum, the hold over provision included in 1977 Lease.

24 Complaint Ex. F, § 13.

25 (c) Brian Ferris - can be contacted through the above-captioned counsel

26 Herb Bock
27 2331 Freeborn Street
28 Bradbury, California 91008

Richard Phillips
45866 Shasta Place

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El Monte, California

John Armato - can be contacted through Defendant's counsel

Brian Anderson - can be contacted through the above-captioned counsel

(d) All of these lease agreements are in the possession of both parties and are attached to the Complaint.

Request for Admission 94:

(b) Vulcan has not made a determination as to what it will do with the WASTE PILE at this time.

(c) Brian Ferris - can be contacted through the above-captioned counsel

(d) None

Request for Admission 95:

(b) Vulcan, by and through its consultants and/or expert witnesses inspected the Property on multiple occasions, in part to determine the environmental impact arising as a result of the bullets that are buried beneath the WASTE PILE.

(c) Brian Ferris - can be contacted through the above-captioned counsel

David Liu, PhD; ENVIRON International Corporation
November 15, 2010; Expert Witness Report of Evaluation of Remediation Alternatives and Costs
Can be contacted through the above-captioned counsel

Dr. Rudolph Von Burg, PhD; President and Founder EnTox & Associates
November 2010; Expert Witness Report
Can be contacted through the above-captioned counsel

Mark Riches P.GP; Vice President GEOVision geophysical services
September 15, 2010; Expert Witness Report Geophysical Investigation
Can be contacted through the above-captioned counsel

(d) The above referenced expert witness reports produced to Defendant in the Federal Action.

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Request for Admission 96:

(b) Vulcan, by and through its consultants and/or expert witnesses inspected the Property on multiple occasions, in part to determine the environmental impact arising as a result of the bullets that are buried beneath the WASTE PILE.

(c) Brian Ferris - can be contacted through the above-captioned counsel

David Liu, PhD; ENVIRON International Corporation
November 15, 2010; Expert Witness Report of Evaluation of Remediation Alternatives and Costs
Can be contacted through the above-captioned counsel

Dr. Rudolph Von Burg, PhD; President and Founder EnTox & Associates
November 2010; Expert Witness Report
Can be contacted through the above-captioned counsel

Mark Riches P:GP; Vice President GEOVision-geophysical services
September 15, 2010; Expert Witness Report Geophysical Investigation
Can be contacted through the above-captioned counsel

(d) The above referenced expert witness reports produced to Defendant in the Federal Action.

Request for Admission 98:

(b) On May 15, 2002, prior to the expiration of the 1992 Lease, Vulcan and the Club executed an Amendment to the Lease which extended the term of the lease to an eighteen (18) month rolling term. First Amendment to Lease, Compl. Ex. I, § 1.

(c) Brian Ferris - can be contacted through the above-captioned counsel

Herb Bock
2331 Freeborn Street
Bradbury, California 91008

Richard Phillips
45866 Shasta Place
El Monte, California

John Armato - can be contacted through Defendant's counsel

Brian Anderson - can be contacted through the above-captioned counsel

1 (d) All of these lease agreements are in the possession of both parties and are
2 attached to the Complaint.

3
4 **Request for Admission 105:**

5 (b) There is no evidence indicating that Vulcan has disposed of hazardous substances
6 a the property.

7 (c) Brian Ferris - can be contacted through the above-captioned counsel

8 Charles St. John - can be contacted through the above-captioned counsel

9 (d) None
10

11 **Request for Admission 106:**

12 (b) The Lease Agreements (1) precluded the Gun Club from committing waste or
13 nuisance on the property and from interfering with the use and enjoyment of neighboring properties,
14 (2) obligated the Gun Club to comply with all applicable federal, state and local laws, including
15 environmental laws, and (3) required that the Gun Club maintain the property in good condition and
16 repair and, upon termination of the lease, return the Final Leasehold Property in an orderly, safe and
17 sanitary condition. (1947 Lease, ¶¶ 3, 7; 1950, ¶¶ 3, 7; 1058 Lease, ¶¶ 3, 9; 1961 Lease, ¶ 5; 1970
18 Lease, ¶ 8; 1977 Lease, ¶ 8; 1988 Lease, ¶¶ 9, 10, 17; 1992 Lease, ¶¶ 9, 10, 17; 2002 Lease
19 Amendment ¶¶ 1, 4). Furthermore, Vulcan never consented to the Club leaving SPENT
20 AMMUNITION on the Property, nor is there any evidence of this.

21 (c) Brian Ferris - can be contacted through the above-captioned counsel

22 Herb Bock
23 2331 Freeborn Street
24 Bradbury, California 91008

25 Richard Phillips
26 45866 Shasta Place
27 El Monte, California

28 John Armato - can be contacted through Defendant's counsel

Brian Anderson - can be contacted through the above-captioned counsel

1 (d) All of these lease agreements are in the possession of both parties and are
2 attached to the Complaint.

3
4 **Request for Admission 107:**

5 (b) Vulcan does not content that the Club refused all requests by Vulcan to clean up
6 SPENT AMMUNITION. As stated in the Complaint, on November 1, 2006, Vulcan received a
7 proposal from the Club for a Phase I Environmental Site Assessment ("ESA") and a Phase II ESA
8 proposal (the "Assessment Proposals") for the Property. After Vulcan's communication regarding
9 its concerns about the Assessment Proposals, the Club wrote to Vulcan on January 2, 2007 with a
10 letter stating that "the cleanup of the site has commenced and may well be complete before the end
11 of January 2007" and that the cleanup would be performed in conformity with, and there was no
12 money for remediation beyond, the EPA's Best Management Practices for Lead at Outdoor
13 Shooting Ranges. Vulcan indicated that this was not sufficient and the Club refused to do anything
14 else.

15 (c) Brian Ferris - can be contacted through the above-captioned counsel

16 Herb Bock
17 2331 Freeborn Street
18 Bradbury, California 91008

19 Richard Phillips
20 45866 Shasta Place
21 El Monte, California

22 John Armato - can be contacted through Defendant's counsel

23 Brian Anderson - can be contacted through the above-captioned counsel

24 (d) The Phase I Environmental Site Assessment, the Phase II ESA Proposal, the
25 Club's January 2, 2007 letter to the Club, Vulcan's January 4, 2007 letter to the Club, Vulcan's May
26 17, 2007 letter to the Club, the Club's May 30, 2007 letter to Vulcan, Vulcan's January 16, 2008
27 letter to the Club, all of which are in the possession of Defendant.
28

JAMES M. BUTLER & MITCHELL LLP

1 INTERROGATORY NO. 50.2:

2 Was there a breach of any agreement alleged in the pleadings? If so, for each breach
3 describe and give the date of every act or omission that you claim is the breach of the agreement.

4 RESPONSE TO INTERROGATORY NO. 50.2:

5 In addition to the General Objections set forth above, Vulcan objects to this
6 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
7 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
8 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
9 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
10 foregoing objections and the Preliminary Statement and General Objections set forth above and
11 incorporated herein, and without waiving the same, Vulcan responds as follows:

12 Yes.

13 **1947 Lease**

14 **1950 Lease**

15 **1958 Lease**

16 **1961 Lease**

17 **1970 Lease**

18 **1977 Lease**

19 **1988 Lease**

20 **1992 Lease**

21 **1992 Lease Amendment**

22 From approximately January 1947 to November 2006, pursuant to the above
23 mentioned leases, Gun Club leased some or all of Vulcan's Property from Vulcan for the purposes
24 of operating a gun club and firearms shooting range. The Gun Club's activities extensively
25 contaminated the soil and potentially groundwater at and underlying the Vulcan Property and,
26 potentially, neighboring parcels with heavy metals and other hazardous substances (the
27 "Contamination"). During the Gun Club's operation and use of the Vulcan Property, hazardous
28 substances were used, dumped, released, deposited, and/or disposed of onto and into the soil and,

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1 potentially, the groundwater at, on, beneath the Vulcan Property and, potentially, neighboring
2 properties.

3 On or about August and September 2005 the Gun Club disclaimed any responsibility
4 for remediating the Contamination. By July 2006, the Gun Club had done little or nothing to
5 remediate Vulcan's Property. On or about November 1, 2006, Vulcan received a proposal from the
6 Gun Club for a Phase I Environmental Site Assessment ("ESA") and a Phase II ESA proposal (the
7 "Assessment Proposals") for the Vulcan Property.

8 The Gun Club ceased operations as of approximately November 6, 2006 but
9 remained in possession of the Final Leasehold Property, purportedly for the purpose of remediating
10 the contamination caused by the Gun Club's operations.

11 On November 9, 2006, Vulcan detailed its concerns about the Assessment Proposals.
12 Among other things, Vulcan informed the Gun Club that the Assessment Proposals: (a) failed to
13 mention the requirement for governmental oversight of the assessment and cleanup; (b) did not
14 provide for thorough remediation of all contamination caused by the Gun Club's activities during its
15 tenancy; (c) would leave significant contamination remaining in the ground on the Vulcan Property
16 and, potentially, in off-site areas contaminated by the Gun Club activities; and (d) failed to provide
17 for confirmation sampling to ensure proper and sufficient clean up.

18 Rather than specifically respond to Vulcan's November 9, 2006 correspondence, the
19 Gun Club responded on or about January 2, 2007 with a letter stating that "the cleanup of the site
20 has commenced and may well be complete before the end of January 2007." The Gun Club further
21 indicated that on-site cleanup would be performed in conformity with, and there was no money for
22 remediation beyond, the EPA's Best Management Practices For Lead at Outdoor Shooting Ranges
23 ("EPA's Shooting Range BMP").

24 By letter dated January 4, 2007, Vulcan informed the Gun Club that EPA's Shooting
25 Range BMP does not provide the appropriate remedial guidance or standards for closed gun ranges,
26 including the Vulcan Property. Notably, EPA's Shooting Range BMP neither sets numerical
27 standards for lead or other hazardous substances in soil nor complies with the California
28 Department of Toxic Substances Control's ("DTSC") regulation of closed and abandoned outdoor

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1 shooting ranges. Vulcan therefore insisted that the Gun Club's remediation comport with DTSC
2 requirements, including, but not limited to, adequate soil sampling and preparation of a Preliminary
3 Endangerment Assessment ("PEA").

4 Vulcan again wrote to the Gun Club on May 17, 2007, expressing its concern that the
5 Gun Club had not yet commenced clean-up efforts and had only recently hired a lead reclamation
6 contractor to begin reclaiming lead at the Vulcan Property. Vulcan also noted that the Gun Club's
7 contractor was not properly licensed or insured and had not obtained the permits necessary to
8 perform any work. Additionally, Vulcan explained that the Gun Club's contractor had not prepared
9 a proper scope of work nor complied with Vulcan's previous requests that the cleanup be performed
10 under appropriate governmental oversight.

11 On May 30, 2007, the Gun Club declared that it was not required to provide a PEA
12 or a proper scope of work (including necessary assessment, confirmation sampling, and remediation
13 requirements), and claimed that its limited finances precluded the Gun Club from performing the
14 type of remediation as required by Vulcan and mandated by applicable law.

15 After the Gun Club failed to take any meaningful steps to investigate and remediate
16 the Contamination, Vulcan again wrote to the Gun Club on or about January 16, 2008 demanding
17 that the Gun Club commence agency approved remediation activities by February 4, 2008.

18 Defendants failed to comply with the February 4, 2008 deadline.

19 Defendants have not followed DTSC requirements for environmental cleanup and
20 have failed to remediate the contamination at the Azusa Property.

21 Defendants have also breached the Leases referenced above, by:

- 22 • Failing to indemnify Vulcan for damage to the leased property caused by the
23 Gun Club's use of said property;
- 24 • Failing to indemnify Vulcan for damage to portions of the Azusa Property
25 not leased by Gun Club and caused by Gun Club's used of leased portions of
26 the Vulcan property;
- 27 • Permitting waste on the Azusa Property;
- 28

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- 1 • Permitting nuisance on the Azusa Property;
- 2 • Interfering with the use and enjoyment of neighboring real property;
- 3 • Failing to keep the leased property in good repair and conditions;
- 4 • Failing to keep the leased property in good order and in a safe, sanitary
- 5 condition;
- 6
- 7 • Failing to return the leased property in a good, safe and sanitary condition
- 8 satisfactory to Vulcan at the termination of the Leases;
- 9 • Permitting the conduct of unlawful activities on the leased property; and
- 10 • Failing to comply with all applicable laws wherein the leased property is
- 11 located.

12 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 50.2:

13 In addition to the General Objections set forth above, Vulcan objects to this
14 Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this
15 action nor reasonably calculated to lead to the discovery of admissible evidence. Vulcan further
16 objects to this Interrogatory to the extent that it seeks information protected by the attorney-client
17 privilege, the attorney work-product doctrine or any other applicable privilege. Subject to the
18 foregoing objections and the Preliminary Statement and General Objections set forth above and
19 incorporated herein, and without waiving the same, Vulcan responds as follows:

20 Yes.

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22 **1950 Lease**

23 **1958 Lease**

24 **1961 Lease**

25 **1970 Lease**

26 **1977 Lease**

27 **1988 Lease**

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1 **1992 Lease**

2 **1992 Lease Amendment**

3 From approximately January 1947 to November 2006, pursuant to the above
4 mentioned leases, Gun Club leased some or all of Vulcan's Property from Vulcan for the purposes
5 of operating a gun club and firearms shooting range. The Gun Club's activities extensively
6 contaminated the soil and potentially groundwater at and underlying the Vulcan Property and,
7 potentially, neighboring parcels with heavy metals and other hazardous substances (the
8 "Contamination"). During the Gun Club's operation and use of the Vulcan Property, hazardous
9 substances were used, dumped, released, deposited, and/or disposed of onto and into the soil and,
10 potentially, the groundwater at, on, beneath the Vulcan Property and, potentially, neighboring
11 properties. See the following expert reports:

12 David Liu, PhD; ENVIRON International Corporation
13 November 15, 2010; Expert Witness Report of Evaluation of Remediation
14 Alternatives and Costs

15 Dr. Rudolph Von Burg, PhD; President and Founder EnTox & Associates
16 November 2010; Expert Witness Report

17 Mark Riches P.GP; Vice President GEOVision geophysical services
18 September 15, 2010; Expert Witness Report Geophysical Investigation

19 On or about August and September 2005 the Gun Club disclaimed any responsibility
20 for remediating the Contamination. By July 2006, the Gun Club had done little or nothing to
21 remediate Vulcan's Property. On or about November 1, 2006, Vulcan received a proposal from the
22 Gun Club for a Phase I Environmental Site Assessment ("ESA") and a Phase II ESA proposal (the
23 "Assessment Proposals") for the Vulcan Property.

24 The Gun Club ceased operations as of approximately November 6, 2006 but
25 remained in possession of the Final Leasehold Property, purportedly for the purpose of remediating
26 the contamination caused by the Gun Club's operations.

27 On November 9, 2006, Vulcan detailed its concerns about the Assessment Proposals.
28 Among other things, Vulcan informed the Gun Club that the Assessment Proposals: (a) failed to

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1 mention the requirement for governmental oversight of the assessment and cleanup; (b) did not
2 provide for thorough remediation of all contamination caused by the Gun Club's activities during its
3 tenancy; (c) would leave significant contamination remaining in the ground on the Vulcan Property
4 and, potentially, in off-site areas contaminated by the Gun Club activities; and (d) failed to provide
5 for confirmation sampling to ensure proper and sufficient clean up.

6 Rather than specifically respond to Vulcan's November 9, 2006 correspondence, the
7 Gun Club responded on or about January 2, 2007 with a letter stating that "the cleanup of the site
8 has commenced and may well be complete before the end of January 2007." The Gun Club further
9 indicated that on-site cleanup would be performed in conformity with, and there was no money for
10 remediation beyond, the EPA's Best Management Practices For Lead at Outdoor Shooting Ranges
11 ("EPA's Shooting Range BMP").

12 By letter dated January 4, 2007, Vulcan informed the Gun Club that EPA's Shooting
13 Range BMP does not provide the appropriate remedial guidance or standards for closed gun ranges,
14 including the Vulcan Property. Notably, EPA's Shooting Range BMP neither sets numerical
15 standards for lead or other hazardous substances in soil nor complies with the California
16 Department of Toxic Substances Control's ("DTSC") regulation of closed and abandoned outdoor
17 shooting ranges. Vulcan therefore insisted that the Gun Club's remediation comport with DTSC
18 requirements, including, but not limited to, adequate soil sampling and preparation of a Preliminary
19 Endangerment Assessment ("PEA").

20 Vulcan again wrote to the Gun Club on May 17, 2007, expressing its concern that the
21 Gun Club had not yet commenced clean-up efforts and had only recently hired a lead reclamation
22 contractor to begin reclaiming lead at the Vulcan Property. Vulcan also noted that the Gun Club's
23 contractor was not properly licensed or insured and had not obtained the permits necessary to
24 perform any work. Additionally, Vulcan explained that the Gun Club's contractor had not prepared
25 a proper scope of work nor complied with Vulcan's previous requests that the cleanup be performed
26 under appropriate governmental oversight.

27 On May 30, 2007, the Gun Club declared that it was not required to provide a PEA
28 or a proper scope of work (including necessary assessment, confirmation sampling, and remediation

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-- 1 requirements), and claimed that its limited finances precluded the Gun Club from performing the
2 type of remediation as required by Vulcan and mandated by applicable law.

3 After the Gun Club failed to take any meaningful steps to investigate and remediate
4 the Contamination, Vulcan again wrote to the Gun Club on or about January 16, 2008 demanding
5 that the Gun Club commence agency approved remediation activities by February 4, 2008.

6 Defendants failed to comply with the February 4, 2008 deadline.

7 Defendants have not followed DTSC requirements for environmental cleanup and
8 have failed to remediate the contamination at the Azusa Property.

9 Defendants have also breached the Leases referenced above, by:

- 10 • Failing to indemnify Vulcan for damage to the leased property caused by the
- 11 Gun Club's use of said property;
- 12 • Failing to indemnify Vulcan for damage to portions of the Azusa Property
- 13 not leased by Gun Club and caused by Gun Club's used of leased portions of
- 14 the Vulcan property;
- 15 • Permitting waste on the Azusa Property;
- 16 • Permitting nuisance on the Azusa Property;
- 17 • Interfering with the use and enjoyment of neighboring real property;
- 18 • Failing to keep the leased property in good repair and conditions;
- 19 • Failing to keep the leased property in good order and in a safe, sanitary
- 20 condition;
- 21 • Failing to return the leased property in a good, safe and sanitary condition
- 22 satisfactory to Vulcan at the termination of the Leases;
- 23 • Permitting the conduct of unlawful activities on the leased property; and
- 24 • Failing to comply with all applicable laws wherein the leased property is
- 25 located.
- 26
- 27
- 28

1 (1947 Lease, ¶¶ 3, 7; 1950, ¶¶ 3, 7; 1058 Lease, ¶¶ 3, 9; 1961 Lease, ¶ 5; 1970 Lease, ¶ 8; 1977
2 Lease, ¶ 8; 1988 Lease, ¶¶ 9, 10, 17; 1992 Lease, ¶¶ 9, 10, 17; 2002 Lease Amendment ¶¶ 1, 4).
3
4

5 DATED: August 29, 2012

JEFFER MANGELS BUTLER & MITCHELL LLP
KENNETH A. EHRLICH
ELIZABETH A. CULLEY

7
8 By: 

9 ELIZABETH A. CULLEY
10 Attorneys for Plaintiff CALMAT CO. DBA VULCAN
MATERIALS COMPANY, WESTERN DIVISION
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PROOF OF SERVICE

STATE OF CALIFORNIA, CITY AND COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 1900 Avenue of the Stars, 7th Floor, Los Angeles, California 90067.

On August 29, 2012 I served the document(s) described as **SUPPLEMENTAL RESPONSES TO REQUESTS FOR FORM INTERROGATORIES, SET ONE, PROPOUNDED ON PLAINTIFF VULCAN MATERIALS COMPANY** on the following in this action addressed as follows:

**C.D. Michel
W. Lee Smith
Scott Franklin
Thomas E. Maciejewski
MICHEL & ASSOCIATES, P.C.
180 East Ocean Boulevard, Suite 200
Long Beach, CA 90802
Telephone: 562.216.4444
Facsimile: 562.216.4445
Attorneys for Defendant San Gabriel Valley Gun Club**

- (BY MAIL) I am "readily familiar" with the business' practice for collection and processing correspondence for mailing. Under that practice true and correct copies of the aforementioned document(s) was deposited, in a sealed envelope with postage thereon fully prepaid, with the U.S. Postal Service on that same day to be mailed via first class mail at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on August 29, 2012 at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

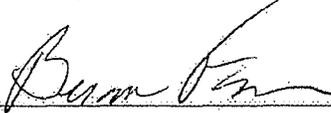
I have read the foregoing **RESPONSES TO REQUESTS FOR FORM INTERROGATORIES, SET ONE, PROPOUNDED ON PLAINTIFF VULCAN MATERIALS COMPANY** and know its contents.

CHECK APPLICABLE PARAGRAPH

- I am a party to this action. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.
- I am an Officer a partner, the Vice President, Assistant General Counsel of Calmat Co. dba Vulcan Materials Company, Western Division, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing document and know its contents. I am informed and believe that the matters stated herein are true.
- I am one of the attorneys for _____, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I have read the foregoing document and know its contents. I am informed and believe and on that ground allege that the matters stated in it are true.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on August 29, 2012, at ^{TOMS RIVER, NJ} ~~Glendale~~, California.



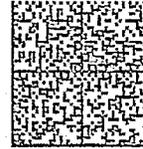
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September 7, 2012

VIA U.S. POST & E-MAIL

Elizabeth A. Culley
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Los Angeles, CA 90067

eculley@jmbm.com

**Re: Insufficient Further Responses to Discovery Propounded by San
Gabriel Valley Gun Club
(*Vulcan v. SGVGC*, LASC Case No. KC062582J)**

Dear Ms. Culley:

My office is in receipt of Vulcan's Supplemental Responses to Form Interrogatories (Set One), Special Interrogatories (Set One), and Request for Admission (Set One). The further (i.e., supplemental) responses are insufficient, as discussed below.

Accordingly, I request a telephonic discovery dispute meet-and-confer as soon as possible. Notwithstanding the foregoing, I will be filing a motion to compel on September 10, 2012,¹ though I hope Vulcan will provide sufficient responses prior to the October 2, 2102, hearing date that is already on calendar pursuant to the agreement of the parties. My office has no intention of taking the October 2 hearing off calendar unless all of the insufficiencies described below have been remedied prior to October 2, 2012.

¹The fact that this meet-and-confer letter is being sent three days before the related motion filing deadline is unfortunate. Nonetheless, I must be clear in confirming that this situation is not the result of any dilatory intention on the part of my office. Rather, this tightened time frame is a result of my office granting a one week extension to the previously agreed-upon (see my email of July 24, 2012, and Ken Ehrlich's response thereto) discovery production date of August 22, 2012. That extension necessarily resulted in this meet-and-confer letter being delivered one week later than we originally intended.

Special Interrogatories

Special Interrogatory No. 6:

Describe with particularity each and every location, including the boundaries of that location expressed via latitude and longitude coordinates, that is both adjacent to the PROPERTY and which YOU contend is contaminated with lead.

Further Response to Special Interrogatory No. 6:

Subject to and without waiving the foregoing objections, Vulcan further responds as follows: Vulcan contends that the area behind the rifle range and the area of the shotgun range represent those areas adjacent to the Property which are contaminated as witnessed by the Club's counsel during more than one site inspection.

Reason why Second Further Response to Special Interrogatory No. 6 Is Required:

This is not a good faith effort at a response. Considering Vulcan has access to free software like Google Earth, there is no reason Vulcan cannot at least attempt to provide the coordinates for the locations at issue. A further response should be provided. *See* Civ. Proc. Code § 2030.220(a) (Each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Special Interrogatory No. 10:

State the earliest date YOU believe YOU stored mined material at the PROPERTY.

Further Response to Special Interrogatory No. 10:

Subject to and without waiving the foregoing objections, Vulcan further responds as follows: The early to mid 90's.

Reason why Second Further Response to Special Interrogatory No. 10 Is Required:

This is not a good faith effort at a response. Considering the documents produced in the federal action (e.g., VUL00816, which is a memo dated 12/05/91 referring to a “waste pile on the rifle range”), Vulcan can provide a date in response to this interrogatory, not a seven-year window. *See* Civ. Proc. Code § 2030.220(a) (Each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Requests for Admission

Preliminary Statement

Vulcan’s preliminary statement contends: “At the Case Management Conference in the instant state court matter, Vulcan offered a stipulation to allow the parties to use all of the discovery completed in the Federal Litigation for all purposes in the current state court litigation. Defendant rejected this stipulation.”

These statements are incorrect: Vulcan has yet to offer a stipulation. What Vulcan did was propose the idea of a stipulation; thus, Defendants never rejected anything, as nothing was ever offered that could have been rejected. As you may recall, on June 19, 2012 (after the Case Management Conference in this case), I emailed you and expressly stated that "I will give good faith consideration to any draft stipulation Vulcan provides[,] and I further explained why I was hesitant to have my client join the type of stipulation you proposed. Indeed, your email of July 10, 2012, stated "I will also send you a draft stipulation to deem all discovery conducted in the Federal Action admissible in this action" without responding to my concerns, and you have never provided a draft stipulation for me to review.

This is the *third time* you have made untrue assertions about the "offered" discovery stipulation. (See Vulcan's Response to Requests for Admission (Set One); letter of Scott M. Franklin to Elizabeth Culley dated June 29, 2012). Please cease discovery shenanigans like this, starting with the correction of the relevant section of the Preliminary Statement.

Request for Admission No. 6:

Admit that before January 1, 2004, VULCAN never told THE CLUB that the presence of SPENT AMMUNITION ("SPENT AMMUNITION" refers to any constituent of a firearm cartridge expelled from a firearm during the normal operation of a firearm, including, but not limited to, shot, bullets, bullet fragments, particulate matter, empty bullet cases, and wadding) at the PROPERTY could cause damage to the PROPERTY.

Further Response Request for Admission No. 6:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that, aside from the language specifically included in the Lease Agreements, it has not uncovered any evidence of a specific conversation with the Club prior to January 1, 2004 that the presence of SPENT AMMUNITION at the PROPERTY could cause damage to the PROPERTY.

Reason Why Second Further Response to Request for Admission No. 6 Is Required:

Vulcan cannot set aside some information in responding to this request ("aside from the language specifically included in the Lease Agreements"), nor can it unnecessarily qualify the response to a simple question ("[Vulcan] has not uncovered any evidence of a specific conversation . . .") under the relevant code section. *See* Civ. Proc. Code § 2033.220(a) ("Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits."). Because this request can be responded to without the verbal contortions used in Vulcan's further response, a second further response is required. *Id.*

Request for Admission No. 7:

Admit that before January 1, 2004, VULCAN never told THE CLUB that the presence of SPENT AMMUNITION at the PROPERTY was causing damage to the PROPERTY.

Further Response to Request for Admission No. 7:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows:

Vulcan admits that, aside from the language specifically included in the Lease Agreements, it has not uncovered any evidence of a specific conversation with the Club prior to January 1, 2004 that the presence of SPENT AMMUNITION at the PROPERTY was causing damage to the PROPERTY.

Reason Why Second Further Response to Request for Admission No. 7 Is Required:

Vulcan cannot set aside some information in responding to this request (“aside from the language specifically included in the Lease Agreements”), nor can it unnecessarily qualify the response to a simple question (“[Vulcan] has not uncovered any evidence of a specific conversation . . .”) under the relevant code section. *See* Civ. Proc. Code § 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”). Because this request can be responded to without the verbal contortions used in Vulcan’s further response, a second further response is required. *Id.*

Request for Admission No. 8:

Admit that before January 1, 2004, VULCAN never told THE CLUB that the presence of lead from bullets shot at the PROPERTY was causing damage to the PROPERTY.

Further Response to Request for Admission No. 8:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that, aside from the language specifically included in the Lease Agreements, it has not uncovered any evidence of a specific conversation with the Club prior to January 1, 2004 that the presence of lead from bullets shot at the Property was causing damage to the Property.

Reason Why Second Further Response to Request for Admission No. 8 Is Required:

Vulcan cannot set aside some information in responding to this request (“aside from the language specifically included in the Lease Agreements”), nor can it unnecessarily qualify the response to a simple question (“[Vulcan] has not uncovered any evidence of a specific conversation . . .”) under the relevant code section. *See* Civ. Proc. Code § 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”). Because this request can be responded to without the verbal contortions used in Vulcan’s further response, a second further response is required. *Id.*

Request for Admission No. 9:

Admit that before January 1, 2004, VULCAN never told THE CLUB that lead from bullets shot at the PROPERTY could cause damage to the PROPERTY.

Further Response to Request for Admission No. 9:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that, aside from the language specifically included in the Lease Agreements, it has not uncovered any evidence of a specific conversation with the Club prior to January 1, 2004 that lead from bullets shot at the Property could cause damage to the Property.

Reason Why Second Further Response to Request for Admission No. 9 Is Required:

Vulcan cannot set aside some information in responding to this request (“aside from the language specifically included in the Lease Agreements”), nor can it unnecessarily qualify the response to a simple question (“[Vulcan] has not uncovered any evidence of a specific conversation . . .”) under the relevant code section. *See* Civ. Proc. Code § 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”). Because this request can be responded to without the verbal contortions used in Vulcan’s further response, a second further response is required. *Id.*

Request for Admission No. 10:

Admit that VULCAN did not ask THE CLUB to remove SPENT AMMUNITION from the PROPERTY at any time before January 1, 2003.

Further Response to Request for Admission No. 10:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that, aside from the language specifically included in the Lease Agreements, it has not uncovered any evidence that it had a specific conversation with the Club asking the Club to remove SPENT AMMUNITION from the Property any time before January 1, 2003.

Reason Why Second Further Response to Request for Admission No. 10 Is Required:

Vulcan cannot set aside some information in responding to this request (“aside from the language specifically included in the Lease Agreements”), nor can it unnecessarily qualify the response to a simple question (“[Vulcan] has not uncovered any evidence of a specific conversation . . .”) under the relevant code section. *See* Civ. Proc. Code § 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”). Because this request can be responded to without the verbal contortions used in Vulcan’s further response, a second further response is required. *Id.*

Request for Admission No. 11:

Admit that VULCAN did not ask THE CLUB to remove lead from the PROPERTY at any time before January 1, 2003.

Further Response to Request for Admission No. 11:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that, aside from the language specifically included in the Lease Agreements, it has not uncovered any evidence that it had a specific conversation with the Club asking the Club to remove lead from the Property any time before January 1, 2003.

Reason Why Second Further Response to Request for Admission No. 11 Is Required:

Vulcan cannot set aside some information in responding to this request (“aside from the language specifically included in the Lease Agreements”), nor can it unnecessarily qualify the response to a simple question (“[Vulcan] has not uncovered any evidence of a specific conversation . . .”) under

Ms. Elizabeth Culley
September 7, 2012
Page 6 of 21

the relevant code section. *See* Civ. Proc. Code § 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”). Because this request can be responded to without the verbal contortions used in Vulcan’s further response, a second further response is required. *Id.*

Request for Admission No. 12:

Admit that VULCAN never contacted THE CLUB before 2004 to specifically demand THE CLUB remove SPENT AMMUNITION from the PROPERTY.

Further Response to Request for Admission No. 12:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that, aside from the language included in the Lease Agreements, it has not uncovered any evidence that it contacted the Club before 2004 to specifically demand the Club remove SPENT AMMUNITION from the Property.

Reason Why Further Response to Request for Admission No. 12 Is Required:

Vulcan cannot set aside some information in responding to this request (“aside from the language specifically included in the Lease Agreements”), nor can it unnecessarily qualify the response to a simple question (“[Vulcan] has not uncovered any evidence that it contacted the Club before 2004 to specifically demand . . .”) under the relevant code section. *See* Civ. Proc. Code § 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”). Because this request can be responded to without the verbal contortions used in Vulcan’s further response, a second further response is required. *Id.*

Request for Admission No. 13:

Admit that VULCAN never contacted THE CLUB before 2004 to specifically demand THE CLUB remove lead from the PROPERTY.

Further Response to Request for Admission No. 13:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that, aside from the language included in the Lease Agreements, it has not uncovered any evidence that it contacted the Club before 2004 to specifically demand the Club remove SPENT AMMUNITION from the Property.

Reason Why Second Further Response to Request for Admission No. 13 Is Required:

Vulcan cannot set aside some information in responding to this request (“aside from the language specifically included in the Lease Agreements”), nor can it unnecessarily qualify the response to a simple question (“[Vulcan] has not uncovered any evidence that it contacted the Club before 2004 to specifically demand . . .”) under the relevant code section. *See* Civ. Proc. Code § 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”). Because this request can be responded to without the verbal contortions used in Vulcan’s further response, a second further

response is required. *Id.*

Request for Admission No. 14:

Admit that VULCAN never contacted THE CLUB before 2004 to specifically request THE CLUB to remove any SPENT AMMUNITION from the PROPERTY.

Further Response to Request for Admission No. 14:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that, aside from the language included in the Lease Agreements, it has not uncovered any evidence that it contacted the Club before 2004 to specifically demand the Club remove SPENT AMMUNITION from the Property.

Reason Why Second Further Response to Request for Admission No. 14 Is Required:

Vulcan cannot set aside some information in responding to this request (“aside from the language specifically included in the Lease Agreements”), nor can it unnecessarily qualify the response to a simple question (“[Vulcan] has not uncovered any evidence that it contacted the Club before 2004 to specifically demand . . .”) under the relevant code section. *See* Civ. Proc. Code § 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”). Further, the request asks about a “request[,]” and Vulcan improperly treated the request as if it inquired regarding a “demand[,]” two indisputably different things. Because this request can be responded to without the verbal contortions used in Vulcan’s further response, a second further response is required. *Id.*

Request for Admission No. 15:

Admit that VULCAN never contacted THE CLUB before 2004 to specifically request THE CLUB to remove any lead from the PROPERTY.

Further Response to Request for Admission No. 15:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that, aside from the language included in the Lease Agreements, it has not uncovered any evidence that it contacted the Club before 2004 to specifically demand the Club remove lead from the Property.

Reason Why Second Further Response to Request for Admission No. 15 Is Required:

Vulcan cannot set aside some information in responding to this request (“aside from the language specifically included in the Lease Agreements”), nor can it unnecessarily qualify the response to a simple question (“[Vulcan] has not uncovered any evidence that it contacted the Club before 2004 to specifically demand . . .”) under the relevant code section. *See* Civ. Proc. Code § 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”). Because this request can be responded to without the verbal contortions used in Vulcan’s further response, a second further response is required. *Id.*

Request for Admission No. 25:

Admit that after VULCAN had begun the WASTE PILE ("WASTE PILE" refers to the pile of WASTE MATERIAL placed by VULCAN on the PROPERTY), Rick Phillips made a comment to Preston Cowan expressing the idea that placing WASTE MATERIAL on the PROPERTY could result in future problems regarding the lead bullets or fragments thereof being buried.

Further Response to Request for Admission No. 25:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that Preston Cowan testified in his deposition in the Federal Litigation that after Vulcan had begun the WASTE PILE, Rick Phillips made a comment to Preston Cowan expressing the idea that placing WASTER MATERIAL on the PROPERTY could result in future problems regarding the burial of lead.

Reason Why Further Response to Request for Admission No. 25 Is Required:

This request *does not* ask for Vulcan to admit that Preston Cowan made a certain statement at deposition, but that is the question Vulcan chose to answer. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) ("[e]ach response shall answer the substance of the requested admission"), 2033.220(a) ("Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.").

Request for Admission No. 26:

Admit that VULCAN is not aware of any person who was present at any conversation between Preston Cowan and Rick Phillips other than Preston Cowan and Rick Phillips.

Further Response to Request for Admission No. 26:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that it is not aware of any person who was present at any conversation between Preston Cowan and Rick Phillips regarding the "WASTE PILE" (as that term is defined herein) other than Preston Cowan and Rick Phillips.

Reason Why Second Further Response to Request for Admission No. 26 Is Required:

Vulcan cannot add unnecessary limitations to its response: either it has the awareness at issue or it does not, the request was simply not limited to conversations re: the WASTE PILE. Properly responding to this request requires nothing more that contacting the Vulcan-affiliated persons listed in Vulcan's further response to Form Interrogatory 12.1 to ask if they are aware of topic at issue. That is not an unreasonable burden, thus a proper response should be provided.

Request for Admission No. 28:

Admit that Preston Cowan told Tom Sheedy that placing WASTE MATERIAL on the PROPERTY was resulting in lead being buried beneath the WASTE MATERIAL.

Further Response to Request for Admission No. 28:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that Preston Cowan testified in his deposition in the Federal Litigation that he told Tom Sheedy that Rick Phillips had expressed the idea that placing WASTE MATERIAL on the PROPERTY could result in future problems regarding the burial of lead.

Reason Why Second Further Response to Request for Admission No. 28 Is Required:

This request *does not* ask for Vulcan to admit that Preston Cowan made a certain statement at deposition, but that is the question Vulcan chose to answer. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 32:

Admit that on several occasions between 1989 and 2000, Preston Cowan oversaw the use of heavy equipment to relocate material from the WASTE PILE that had flowed onto the range floor at the PROPERTY.

Further Response to Request for Admission No. 32:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that in the Federal Litigation, Preston Cowan submitted a declaration stating that he oversaw the use of heavy equipment to relocate material from the WASTE PILE that had flowed onto the range floor at the PROPERTY after heavy rains.

Reason Why Second Further Response to Request for Admission No. 32 Is Required:

This request *does not* ask for Vulcan to admit that Preston Cowan made a certain statement in a declaration, but that is the question Vulcan chose to answer. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 33:

Admit that on several occasions between 1989 and 2000, Preston Cowan used heavy equipment to relocate material from the WASTE PILE that had flowed onto the range floor at the PROPERTY.

Further Response to Request for Admission No. 33:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that in the Federal Litigation, Preston Cowan submitted a declaration stating that he used heavy equipment to relocate material from the WASTE PILE that had flowed onto the range floor at the PROPERTY after heavy rains eroded the WASTE PILE.

Reason Why Second Further Response to Request for Admission No. 33 Is Required:

This request *does not* ask for Vulcan to admit that Preston Cowan made a certain statement in a declaration, but that is the question Vulcan chose to answer. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 34:

Admit that VULCAN relocated material from the range floor to the top of the WASTE PILE.

Further Response to Request for Admission No. 34:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that in the Federal Litigation, Preston Cowan submitted a declaration stating that he relocated material from the range floor to the top of the WASTE PILE when heavy rain eroded the WASTE PILE.

Reason Why Second Further Response to Request for Admission No. 34 Is Required:

This request *does not* ask for Vulcan to admit that Preston Cowan made a certain statement in a declaration, but that is the question Vulcan chose to answer. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 35:

Admit that a VULCAN employee used a truck of some type to relocate WASTE MATERIAL from an area at the base of the WASTE PILE to the top of the WASTE PILE.

Further Response to Request for Admission No. 35:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that in the Federal Litigation, Preston Cowan submitted a declaration stating that he used a loader and a dump truck to relocate WASTE MATERIAL from an area at the base of the WASTE PILE to the top of the WASTE PILE after heavy rains eroded the WASTE PILE.

Reason Why Second Further Response to Request for Admission No. 35 Is Required:

This request *does not* ask for Vulcan to admit that Preston Cowan made a certain statement in a declaration, but that is the question Vulcan chose to answer. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 36:

Admit that material relocated from the base of the WASTE PILE to the top of the WASTE PILE contained whatever was in the WASTE PILE that had slid to the range floor.

Further Response to Request for Admission No. 36:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that in the Federal Litigation, Preston Cowan submitted a declaration stating that the material relocated from the base of the WASTE PILE to the top of the WASTE PILE contained whatever was in the WASTE PILE that had slid to the range floor.

Reason Why Second Further Response to Request for Admission No. 36 Is Required:

This request *does not* ask for Vulcan to admit that Preston Cowan made a certain statement in a declaration, but that is the question Vulcan chose to answer. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 37:

Admit that bullets and WASTE PILE material slid from the WASTE PILE onto a flat area immediately south of the WASTE PILE.

Further Response to Request for Admission No. 37:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that in the Federal Litigation, Preston Cowan submitted a declaration stating that when heavy rains eroded the WASTE PILE, he believed that the material that slid from the WASTE PILE onto a flat area immediately south of the WASTE PILE contained bullets and WASTE PILE material.

Reason Why Second Further Response to Request for Admission No. 37 Is Required:

This request *does not* ask for Vulcan to admit that Preston Cowan made a certain statement in a declaration, but that is the question Vulcan chose to answer. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 40:

Admit that Tom Jenkins delivered a DRAFT LEASE ("DRAFT LEASE" refers to a draft of the May 20, 1992 LEASE between THE CLUB and VULCAN) to THE CLUB on February 10, 1992.

Further Response to Request for Admission No. 40:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows:

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Vulcan admits that Tom Jenkins signed the February 10, 1992 Letter of Transmittal of the February 19, 1992 Draft Lease which indicated that it was hand delivered. SGVGC004962.

Reason Why Second Further Response to Request for Admission No. 40 Is Required:

This request *does not* ask for Vulcan to admit that Tom Jenkins signed a particular document, but that is the question Vulcan chose to answer. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 48:

Admit that VULCAN's March 5, 1992 response to THE CLUB's written comments to the DRAFT LEASE does not mention SPENT AMMUNITION or the cleanup thereof.

Further Response to Request for Admission No. 48:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that its March 5, 1992 response to the Club's written comments to the DRAFT LEASE does not contain the words "SPENT AMMUNITION."

Reason Why Second Further Response to Request for Admission No. 48 Is Required:

This response is clearly provided in bad faith, and is plain evidence of a failed attempt at discovery gamesmanship. The request does not ask about *the words* “spent ammunition[,]” it asks about the term “SPENT AMMUNITION” that is defined in the relevant set of discovery. Vulcan and its counsel surely know the difference between the words used to define a certain type of material and the material itself. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 49:

Admit that VULCAN's March 5, 1992 response to THE CLUB's written comments to the DRAFT LEASE does not mention fired lead bullets or the cleanup thereof.

Further Response to Request for Admission No. 49:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that its March 5, 1992 response to the Club's written comments to the DRAFT LEASE does not contain the words "fired lead bullets."

Reason Why Further Response to Request for Admission No. 49 Is Required:

This response is clearly provided in bad faith, and is plain evidence of a failed attempt at discovery gamesmanship. The request does not ask about *the words* “fired lead bullets[,]” it asks about

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the fired lead bullets themselves. In fact, it is clear that this request asks about material that could be classified as "fired lead bullets" (as opposed to those words) because it has a follow up clarification ("or the cleanup thereof") that would make no sense if the request was actually referring to the words "fired lead bullets[.]" Vulcan and its counsel surely know the difference between the words used to define a certain type of material and the material itself. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) ("[e]ach response shall answer the substance of the requested admission"), 2033.220(a) ("Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.").

Request for Admission No. 76:

Admit that the term of the LEASE between VULCAN and THE CLUB expired on May 20, 2002.

Further Response to Request for Admission No. 76:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that the LEASE states that it expires on May 20, 1992, but that on May 15, 2002, Vulcan and the Club entered into an agreement that allowed Vulcan to lease the Property on an eighteen month rolling term and incorporated the terms of the LEASE.

Reason Why Second Further Response to Request for Admission No. 76 Is Required:

This request does not ask what is *stated* in the lease at issue, it asks when the term of that lease expired, which is a different, though admittedly related, question to the one Vulcan actually responded to. Nonetheless, Vulcan has a duty to respond to the request asked, even where though it requires the application of law to fact. Civ. Proc. Code §§ 2033.010 ; 2033.210(b) ("[e]ach response shall answer the substance of the requested admission"), 2033.220(a) ("Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.").

Request for Admission No. 85:

Admit that none of the leases or licenses in place between 1947 and 2006 between VULCAN and THE CLUB mentioned SPENT AMMUNITION.

Further Response to Request for Admission No. 85:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that none of the leases or licenses in place between 1947 and 2006 included the words "SPENT AMMUNITION."

Reason Why Second Further Response to Request for Admission No. 85 Is Required:

This response is clearly provided in bad faith, and is plain evidence of a failed attempt at discovery gamesmanship. The request does not ask about *the words* "spent ammunition[.]" it asks about the term "SPENT AMMUNITION" that is defined in the relevant set of discovery. Vulcan and

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its counsel surely know the difference between the words used to define a certain type of material and the material itself. Thus, the response is evasive and improper, and a further response is required. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 87:

Admit that between 1947 and 2006, VULCAN was aware that lead was being deposited on the PROPERTY.

Further Response to Request for Admission No. 87:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Vulcan admits that at some point between 1947 and 2006 it became aware that lead was being deposited on the Property.

Reason Why Second Further Response to Request for Admission No. 87 Is Required:

The request at issue inquires about a complete period of time (1947-2007), Vulcan’s response is vague and limited, and only responds to a portion of the request (“at some point between 1947 and 2006 . . .”). To the extent Vulcan can only respond to a portion of a request, it is required to “Specify so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge.” Civ. Proc. Code § 2033.220(b)(3)-(c). Vulcan is required to provide a full and complete response under the Code. Civ. Proc. Code §§ 2033.210(b) (“[e]ach response shall answer the substance of the requested admission”), 2033.220(a) (“Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”).

Request for Admission No. 92:

Admit that, at no time during any lease negotiation did VULCAN discuss with THE CLUB what type of cleanup of the PROPERTY was expected by VULCAN upon the end of the leasehold relationship.

Further Response to Request for Admission No. 92:

Subject to and without waiving the foregoing responses, Vulcan further responds as follows: Other than what is specified in the Lease Agreements themselves, Vulcan admits that it did not specifically discuss the details of the cleanup required by the Club upon the end of the leasehold relationship.

Reason Why Second Further Response to Request for Admission No. 92 Is Required:

Vulcan’s response is limited more narrowly than Request No. 92 is. That is, the request asks if Vulcan “discussed” the issue at hand with SGVGC, and Vulcan’s response states it did not “specifically discuss.” If Vulcan’s use of “specifically discuss” was intended to be synonymous with discuss, a further response explaining that fact is required. Civ. Proc. Code § 2033.220(a) (“Each

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answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.”). If, however, Vulcan was intending to use “specifically discuss” as a term that is understood to be more narrow than the use of the term “discuss” in Request No. 92, Vulcan had a responsibility to explain why it was not fully responding to the request. Civ Pro. Code § 2033.220(b)(3)-(c). In either scenario, a further response is required.

Form Interrogatories

Form Interrogatory No. 9.1:

Are there any other damages that you attribute to the INCIDENT? If so, for each item of damage state:

- (a) the nature;
- (b) the date it occurred;
- (c) the amount; and
- (d) the name, ADDRESS, and telephone number of each PERSON to whom an obligation was incurred.

Further Response to Form Interrogatory No. 9.1:

Subject to and without waiving the foregoing objections, Vulcan further responds as follows:

(a) Nature of Damages: (1) Damages associated with the costs incurred for investigating, assessing, monitoring and remediating the Contamination; (2) loss of property value incurred due to the existence of the Contamination including but not limited to, loss of permanent value as caused by the stigma of environmental contamination; (3) loss of future rent; (4) costs to repair and restore the Azusa Property and neighboring properties to proper condition; (5) statutory costs; (6) punitive and exemplary damages; (7) treble damages; and (8) attorney's fees and costs of suit.

- (b) Approximately January 1947 to November 2006
- (c) A minimum of \$6,720,000.00
- (d) Calmat Co. dba Vulcan Materials Company, Western Division, a Delaware Corporation who can be contacted through the above-captioned counsel.

Reason Why Second Further Response to Form Interrogatory No. 9.1 Is Required:

This form interrogatory inquires as to four subcategories of information “*each* item of damage[.]” (Emphasis added). The further response provided groups all damage amounts into a single sum: \$6,720,000.00. A second further response needs to be provided to respond to the specific question asked, i.e., a response that states the amount of damages sought for *each* item of damages listed in Vulcan’s further response to Form Interrogatory 9.1(a). See Civ. Proc. Code § 2030.220(a)-(b) (interrogatory responses must be as complete and straightforward as the information reasonably available to the responding party permits”).

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Form Interrogatory No. 9.2:

Do any **DOCUMENTS** support the existence or amount of any item of damages claimed in interrogatory 9.1? If so, state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT**.

Further Response to Form Interrogatory No. 9.2:

Subject to and without waiving the foregoing objections, Vulcan further responses as follows: The following Lease Agreements which are in the possession of Vulcan who can be contacted through the above-captioned counsel:

1947 Lease - January 1, 1947 - August 31, 1950
1950 Lease - August 31, 1950 - January 1, 1958
1958 Lease - January 1, 1958 - August 31, 1961
1961 Lease - September 1, 1961 - December 10, 1970
1970 Lease - December 11, 1970 - December 11, 1977
1977 Lease - December 11, 1977 - February 3, 1988
1988 Lease - February 4, 1988 - May 19, 1992
1992 Lease - May 20, 1992, as amended on May 15, 2002 - November 6, 2006

Reason Why Second Further Response to Form Interrogatory No. 9.2 Is Required:

This form interrogatory seeks to identify persons in possession of documents supporting the existence of damages identified in Form Interrogatory 9.1, and it implicitly requires Vulcan to identify all such documents. Vulcan's further response lists nothing other than leases that are in the possession of Vulcan's counsel. To list only leases when there are certain damage-related documents available (attorney's billings, receipts re: costs of suit, etc.) is evasive and incomplete. A further response is required to meet Vulcan's duty under the Code of Civil Procedure. *See* Civ. Proc. Code § 2030.220(a)-(b) (interrogatory responses must be as complete and straightforward as the information reasonably available to the responding party permits").

Form Interrogatory No. 17.1 re: Request for Admission No. 18²

Admit that at VULCAN had no contractual right to enter the PROPERTY to dump material on the PROPERTY between June 17, 1987 and May 19, 1992. (Response: Deny)

Further Response to Form Interrogatory No. 17.1 re: Request for Admission No. 18:

(b) Nothing contractually prohibited Vulcan from entering "the PROPERTY to dump material on the PROPERTY between June 17, 1987 and May 19, 1992."

(c) Brian Ferris - can be contacted through the above-captioned counsel
Herb Bock
2331 Freeborn Street
Bradbury, California 91008

Richard Phillips
45866 Shasta Place
El Monte, California

John Armato - can be contacted through Defendant's counsel
Brian Anderson - can be contacted through the above-captioned counsel

(d) The documents supporting Vulcan's response to this Request for Admission are each of the Leases (as previously defined) at issue in this Complaint.

Reason Why Second Further Response to Form Interrogatory No. 17.1 re: Request for Admission No. 18 Is Required:

Vulcan avoids the question at issue, and fails to site a lease provision that gave it the right to enter on the subject property (a trespass, if unauthorized). Further, Vulcan has no basis for claiming that "Nothing contractually prohibited Vulcan from entering "the PROPERTY to dump material on the PROPERTY between June 17, 1987 and May 19, 1992." Indeed, the existence of a lease itself, without an express provision to the contrary, contractually prohibits the conduct at issue. *See Kaiser Co. Reid*, 30 Cal. 2d 610, 618 (1947). If Vulcan does not provide a further response that actually supports its

² The predicate question for all 17.1 interrogatories is as follows:

Is your response to each request for admission served with these interrogatories an unqualified admission? If not, for each response that is not an unqualified admission:

- (a) state the number of the request;
- (b) state all facts upon which you base your response;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of those facts; and
- (d) identify all **DOCUMENTS** and other tangible things that support your response and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.

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response to Request for Admission 18 or change the response to that request to an admission, Vulcan will be knowingly violating the relevant discovery law. Civ Pro. Code §§ 2030.220; 2033.220.

Form Interrogatory No. 17. 1 re: Requests for Admission Nos. 52-54:

Request for Admission No. 52: Admit that, prior to May 20, 1992, VULCAN never indicated to THE CLUB that the DRAFT LEASE PROVISION was intended to address SPENT AMMUNITION. (Response: Deny)

Request for Admission No. 53: Admit that, prior to May 20, 1992, VULCAN never indicated to THE CLUB that the DRAFT LEASE PROVISION was intended to address lead bullets that had been fired at the PROPERTY. (Response: Deny)

Request for Admission No. 54: Admit that, prior to 2005, VULCAN never indicated to THE CLUB that the DRAFT LEASE PROVISION was intended to address SPENT AMMUNITION. (Response: Deny)

Further Responses to Form Interrogatory No. 17. 1 re: Requests for Admission Nos. 52-54

Request for Admission 52:

(b) Herb Bock testified at his deposition in the Federal Litigation that during the negotiation of the 1992 lease, the Gun Club knew that the DRAFT LEASE PROVISION could address SPENT AMMUNITION and that the Gun Club "did not want Vulcan to tell [it] . . . what type of ammunition [it] could use on the range." Bock Depo at 56:15-20.

(c) Herb Bock
2331 Freeborn Street
Bradbury, California 91008

(d) Bock Deposition transcript which is in the possession of the Club.

Request for Admission 53:

(b) Herb Bock testified at his deposition in the Federal Litigation that during the negotiation of the 1992 lease, the Gun Club knew that the DRAFT LEASE PROVISION could address lead bullets that had been fired at the Property and that the Gun Club "did not want Vulcan to tell [it] . . . what type of ammunition [it] could use on the range." Bock Depo at 56:15-20.

(c) Herb Bock
2331 Freeborn Street
Bradbury, California 91008

(d) Bock Deposition transcript which is in the possession of the Club.

Request for Admission 54:

(b) Herb Bock testified at his deposition in the Federal Litigation that during the negotiation of the 1992 lease, the Gun Club knew that the DRAFT LEASE PROVISION could address SPENT AMMUNITION and that the Gun Club "did not want Vulcan to tell [it] . . . what type of ammunition [it] could use on the range." Bock Depo at 56:15-20.

(c) Herb Bock

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2331 Freeborn Street
Bradbury, California 91008

(d) Bock Deposition transcript which is in the possession of the Club.

Reason Why Second Further Response to Form Interrogatories No. 17.1 re: Request for Admissions Nos. 52-54 Is Required:

Put simply, the responses at issue are not true, based on the document cited, i.e., the transcript of the deposition of Herb Bock, at 56:15-20. The cited testimony, and the context surrounding it, makes it clear that his understanding was, at best, that Vulcan was intending to limit the type of ammunition could be *brought onto* the subject property, not what type of spent ammunition could be left at the property. E.g., "I do remember that they didn't want to give Vulcan the authority to dictate what type of ammunition or propellant powers and stuff like that we could bring on the premises." (Bock Deposition at 55:19-23). If Vulcan does not provide a further response that actually supports its response to Requests for Admission Nos. 52-54 or change the responses to those requests to admissions, Vulcan will be knowingly violating the relevant discovery law. Civ Pro. Code §§ 2030.220; 2033.220.

Further Response to FI 17.1 re: Request for Admission No. 60:

Admit that VULCAN did not seek permission from THE CLUB to create the WASTE PILE.
(Response: Deny)

Further Response to FI 17.1 re: Request for Admission No. 60:

(b) Thomas Sheedy testified at his deposition in the Federal Litigation that after Vulcan made the decision to create the WASTE PILE, he had a discussion with Rick Phillips at the Gun Club about the creation of the WASTE PILE, including where it would be placed and the logistics of creating it. Sheedy Depo. At 47:10-48:6.

(c) Thomas Sheedy
5275 La Canada Boulevard
La Canada-Flintridge, CA 91011

Rick Phillips
45866 Shasta Place
El Monte, California

(d) Sheedy Deposition transcript which is in the possession of the Club.

Reason Why Second Further Response to Form Interrogatory No. 17.1 re: Request for Admission No. 60 Is Required:

Vulcan fails to provide any basis for its denial: the fact that Tom Sheedy and Rick Phillips had a discussion about the creation of the waste pile in no way addresses whether permission was sought from SGVGC regarding the creation of the waste pile. If Vulcan does not provide a further response that actually supports its response to Request for Admission 60 or change the response to that request

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to an admission, Vulcan will be knowingly violating the relevant discovery law. Civ Pro. Code §§ 2030.220; 2033.220.

Form Interrogatory No. 17.1 re Request for Admission No. 79:

Admit that VULCAN never made any comment about SPENT AMMUNITION at the PROPERTY to THE CLUB's former attorney, Robert Carter. (Response: Deny)

Further Response to Form Interrogatory 17.1 re: Request for Admission No. 79 :

(b) In the 1992 Draft Lease (Exhibit 4 to the Brian Ferris Deposition) which was transmitted to Robert Carter, Vulcan specifically included a provision specifically referring to spent ammunition and the type of bullets used at the Property. 1992 Draft Lease § 9. Mr. Carter then responded to Vulcan on February 24, 1992 (Exhibit 5 to Brian Ferris Deposition) specifically regarding this provision. On March 5, 1992, Vulcan responded to Mr. Carter regarding this provision. (Exhibit 6 to Brian Ferris Deposition). Then Vulcan and Mr. Carter had a telephone conversation regarding this provision (Exhibit 7 to Brian Ferris Deposition). Ultimately, the Club and Vulcan signed a lease with a modified version of this provision. (Exhibit 8 to Brian Ferris Deposition).

(c) Brian Ferris - can be contacted through the above captioned counsel

Robert Carter - address unknown

Tom Jenkins

329 Auburn Way

Claremont, CA

Phone: (909) 626-8796

Tom Davis

Davis Consulting Services

P.O. Box 4183

Orange, California 92863

(d) Brian Ferris Deposition Exhibits 4-8.

Reason Why Second Further Response to FI 17.1 re: RFA No. 79 Is Required:

None of the documents cited support the denial at issue. Specifically, none of the exhibits refer to *spent* ammunition, and unless Vulcan is specifically representing that Brian Ferris remembers discussing spent ammunition during the phone call referred to in Vulcan's response, this is an insufficient response. If Vulcan does not provide a further response that actually supports its response to response to Request for Admission 79 or change the response to that request to an admission, Vulcan will be knowingly violating the relevant discovery law. Civ Pro. Code §§ 2030.220; 2033.220.

Form Interrogatory 17.1 re: Request for Admission No. 80:

Admit that VULCAN never made any comment about lead bullets present at the PROPERTY to THE CLUB's former attorney, Robert Carter.

Further Response to Form Interrogatory 17.1 re: Request for Admission No. 80 :

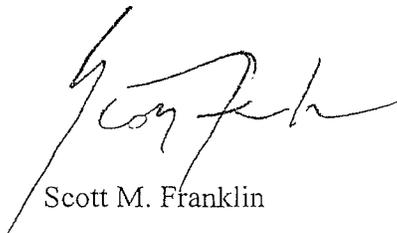
(b) In the 1992 Draft Lease (Exhibit 4 to the Brian Ferris Deposition) which was transmitted to Robert Carter, Vulcan specifically included a provision specifically referring to spent ammunition and the type of bullets used at the Property. 1992 Draft Lease § 9. Mr. Carter then responded to Vulcan on February 24, 1992 (Exhibit 5 to Brian Ferris Deposition) specifically regarding this provision. On March 5, 1992, Vulcan responded to Mr. Carter regarding this provision. (Exhibit 6 to Brian Ferris Deposition). Then Vulcan and Mr. Carter had a telephone conversation regarding this provision (Exhibit 7 to Brian Ferris Deposition). Ultimately, the Club and Vulcan signed a lease with a modified version of this provision. (Exhibit 8 to Brian Ferris Deposition).

Reason Why Second Further Response to Form Interrogatory 17.1 re: Request for Admission No. 80 Is Required:

None of the documents cited support the denial at issue. Specifically, none of the exhibits refer to *lead bullets*, and unless Vulcan is specifically representing that Brian Ferris remembers discussing lead bullets during the phone call referred to in Vulcan's response, this is an insufficient response. If Vulcan does not provide a further response that actually supports its response to response to Request for Admission 80 or change the response to that request to an admission, Vulcan will be knowingly violating the relevant discovery law. Civ Pro. Code §§ 2030.220; 2033.220.

Sincerely,

Michel & Associates, P.C.



Scott M. Franklin

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF LOS ANGELES

4 I, Christina Sanchez, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
6 business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

7 On September 10, 2012, I served the foregoing document(s) described as

8 **NOTICE OF MOTION AND MOTION OF DEFENDANT SAN GABRIEL VALLEY GUN**
9 **CLUB TO COMPEL FURTHER RESPONSES TO FORM INTERROGATORIES (SET**
10 **ONE) FROM PLAINTIFF CALMAT CO. dba VULCAN MATERIALS COMPANY,**
11 **WESTERN DIVISION; MEMORANDUM OF POINTS AND AUTHORITIES;**
12 **DECLARATION OF SCOTT M. FRANKLIN**

13 on the interested parties in this action by placing

14 the original

15 a true and correct copy

16 thereof enclosed in sealed envelope(s) addressed as follows:

17 Kenneth A. Ehrlich
18 Elizabeth A. Culley
19 Jeffer, Mangels, Butler & Mitchell, LLP
20 1900 Avenue of the Stars, Seventh Floor
21 Los Angeles, CA 90067-4308

22 (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
23 processing correspondence for mailing. Under the practice it would be deposited with the
24 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
25 California, in the ordinary course of business. I am aware that on motion of the party
26 served, service is presumed invalid if postal cancellation date is more than one day after
27 date of deposit for mailing an affidavit.

28 Executed on September 10, 2012, at Long Beach, California.

X (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
addressee.

Executed on September 10, 2012, at Long Beach, California.

(OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of
collection and processing correspondence for overnight delivery by UPS/FED-EX. Under
the practice it would be deposited with a facility regularly maintained by UPS/FED-EX for
receipt on the same day in the ordinary course of business. Such envelope was sealed and
placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for
in accordance.

Executed on September 10, 2012, at Long Beach, California.

X (STATE) I declare under penalty of perjury under the laws of the State of California that
the foregoing is true and correct.

29 
30 CHRISTINA SANCHEZ