

AFFF. The Government responds that these documents are irrelevant to issues concerning AFFF land-use and groundwater contamination, and that any relevance is far outweighed by the burden of conducting multi-level national security reviews and a relevancy review, on what are potentially 40,000 documents, for any such information.

After conducting an *in camera* review of these twelve documents, including the two that Defendants specifically contend are indicative of a larger pool of relevant information, the Court agrees with the Government. Rule 26 is intended to provide a “proportionality calculation” in order to ensure that otherwise broad discovery is facilitated through “case-specific determination[s].” Fed. R. Civ. P. 26, 2016 Amendment. In these circumstances—considering the substance of the twelve documents in light of the burden of reviewing thousands of similar documents for similarly relevant information—the burden of the proposed discovery far outweighs its likely benefit. Moreover, the parties have indicated that they are amenable to negotiating obtaining any potentially relevant information through less burdensome discovery tools such as stipulation, agreement, requests for admission, interrogatories or deposition questioning. Defendants are free to again raise this issue to the Court, if necessary, after they have had the benefit of reviewing that discovery.

For the foregoing reasons, the Court **GRANTS** the Government’s motion (Dkt. No. 490) and finds that the burden of producing these and similar documents, which may be discovered through less burdensome means, far outweighs the potential benefit of any relevancy. The Court **DENIES WITHOUT PREJUDICE** the Defendants’ request to allow discovery on the basis of these documents.

AND IT IS SO ORDERED.

April 30, 2020
Charleston, South Carolina

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge