

1 CINDY COHN (SBN 145997)
 cindy@eff.org
 2 LEE TIEN (SBN 148216)
 KURT OPSAHL (SBN 191303)
 3 MATTHEW ZIMMERMAN (SBN 212423)
 4 MARK RUMOLD (SBN 279060)
 DAVID GREENE (SBN 160107)
 5 JAMES S. TYRE (SBN 083117)
 ELECTRONIC FRONTIER FOUNDATION
 6 815 Eddy Street
 San Francisco, CA 94109
 7 Tel.: (415) 436-9333; Fax: (415) 436-9993
 8 THOMAS E. MOORE III (SBN 115107)
 tmoore@rroyselaw.com
 9 ROYSE LAW FIRM, PC
 10 1717 Embarcadero Road
 Palo Alto, CA 94303
 11 Tel.: 650-813-9700; Fax: 650-813-9777
 12 Attorneys for Plaintiffs

RACHAEL E. MENY (SBN 178514)
 rmeny@kvn.com
 MICHAEL S. KWUN (SBN 198945)
 BENJAMIN W. BERKOWITZ (SBN 244441)
 KEKER & VAN NEST, LLP
 633 Battery Street
 San Francisco, California 94111
 Tel.: (415) 391-5400; Fax: (415) 397-7188
 RICHARD R. WIEBE (SBN 121156)
 wiebe@pacbell.net
 LAW OFFICE OF RICHARD R. WIEBE
 One California Street, Suite 900
 San Francisco, CA 94111
 Tel.: (415) 433-3200; Fax: (415) 433-6382
 ARAM ANTARAMIAN (SBN 239070)
 aram@eff.org
 LAW OFFICE OF ARAM ANTARAMIAN
 1714 Blake Street
 Berkeley, CA 94703
 Telephone: (510) 289-1626

14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**
 16 **SAN FRANCISCO DIVISION**

17 FIRST UNITARIAN CHURCH OF LOS
 18 ANGELES, *et al.*,
 19 Plaintiffs,
 20 v.
 21 NATIONAL SECURITY AGENCY, *et al.*,
 22 Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF DEEPA
 PADMANABHA FOR
 GREENPEACE, INC., IN SUPPORT
 OF PLAINTIFFS' MOTION FOR
 PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
 Time: 9:00 A.M.
 Hon. Jeffrey S. White
 Courtroom 11 - 19th Floor

1 I, DEEPA PADMANABHA, hereby declare:

2 1. I am a Staff Attorney with Greenpeace, Inc. (“Greenpeace”). The facts contained in
3 the following affidavit are known to me of my own personal knowledge and if called upon to testify,
4 I could and would competently do so.

5 2. Greenpeace is an advocacy organization dedicated to combating the most serious
6 threats to the planet’s biodiversity and environment. Since 1971, Greenpeace has been at the
7 forefront of environmental activism through non-violent protest, research, lobbying, and public
8 education. Greenpeace has approximately 350,000 members and fourteen offices in the United
9 States.

10 3. The collection of our phone records by the government has resulted in (1) harassment,
11 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
12 objectively suggest an impact on, or ‘chilling’ of, the members’ associational rights. I say this
13 because of the facts listed below.

14 4. As part of its environmental advocacy, Greenpeace staff and members engage in
15 communications, via telephone and email, on a daily basis. Individuals contacted include
16 representatives of multinational organizations, government officials, scientific experts, and
17 Greenpeace members.

18 5. Greenpeace is aware that it has been targeted for surveillance in the past by the NSA.
19 For example, in 1992 British intelligence officials revealed to the *London Observer* that in the 1990s
20 the NSA had used the word “Greenpeace” as a keyword to intercept communications. Government
21 documents obtained under the Freedom of Information Act (FOIA) reveal that Greenpeace has been
22 the subject of surveillance by the FBI and Joint Terrorism Task Forces, whose internal documents
23 contend that the organization is associated with “suspicious activity with a connection to
24 international terrorism.” Documents obtained through FOIA also indicate that the FBI has used
25 confidential informants to obtain information about Greenpeace activities.

26 6. In October 2003, the Department of Justice indicted Greenpeace using a 19th century
27 statute that had not been invoked for over a century. This information was widely reported in the
28

1 *New York Times* and other national media outlets.

2 7. In July 2005, the American Civil Liberties Union, in response to a FOIA request,
3 received 2,383 pages of internal FBI documents regarding the surveillance of Greenpeace. News of
4 the FBI's possession of these documents and investigations of Greenpeace were widely reported in
5 the *New York Times* and other news outlets.

6 8. In September 2010, a report by the Department of Justice's Inspector General noted
7 several instances in which the FBI had conducted improper investigations of Greenpeace. This
8 information was reported by ABC News, as well as other national media outlets.

9 9. Greenpeace's past and recent activities make the organization a likely target for
10 government surveillance. Greenpeace has used various means, including non-violent direct action,
11 to actively publicize the ties between our presidential administrations and the fossil fuel industry.

12 10. Because of the nature of Greenpeace's communications, Greenpeace's recent
13 activities, and the U.S. government's past surveillance of Greenpeace, Greenpeace members have a
14 well-founded belief that their communications have been, or currently are being, intercepted by the
15 NSA.

16 11. Greenpeace's telephone calls with its members, as well as other individuals and
17 organizations, are vital to its organizational goal of addressing environmental problems of global
18 magnitude. The mission requires free and open communication with colleagues, members, experts,
19 and leaders of government and industry.

20 12. Since May 2000, Greenpeace has operated six Verizon plain old telephone service
21 (POTS) lines used for inbound and outbound faxing.

22 13. From August 2000 through January 2013, Greenpeace operated two Primary Rate
23 Interface (PRI) lines connected to the Private Branch Exchange (PBX) based in the Greenpeace
24 Headquarters office in Washington, DC. Greenpeace directly contracted with MetTel for these
25 services, and the underlying carrier was Verizon.

26 14. The Associational Tracking Program substantially impairs the ability of Greenpeace
27 to engage in communications that are vital to its mission. Knowledge of the Associational Tracking
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1 Program creates a chilling effect on Greenpeace members who wish to communicate information by
2 telephone that they reasonably believe could be used to disrupt Greenpeace's lawful activities
3 through preemptive action against legitimate, and peaceful, protests.

4 15. Since the disclosure of the Associational Tracking Program, we cannot reassure those
5 who contact Greenpeace and as well as those we actively seek out for collaboration that their
6 communications with Greenpeace will be confidential.

7 16. Moreover, the pattern of distortion and lawless conduct by the NSA, exacerbated by
8 the intense secrecy of its activities, have left us unable to reassure our members and associates that
9 additional forms of surveillance, as yet unconfirmed or actively denied by the government, are not
10 also occurring, leaving us with no alternative forms of confidential communication.

11 I declare under penalty of perjury under the laws of the United States of America that
12 the foregoing is true and correct. Executed on October __, 2013 at Washington, DC.

13
14 _____
DEEPA PADMANABHA

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2 telephone that they reasonably believe could be used to disrupt Greenpeace's lawful activities
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14 DEEPA PADMANABHA

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