



II.

Respondent seeks an order compelling Complaint Counsel to provide more complete answers to Respondent's First Set of Interrogatories. Motion at 1. D. No. 1:11-cv-00011.

making process of a governmental agency. *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 150-152 (1975). This privilege permits the government to withhold documents that reflect advisory opinions, recommendations, and deliberations comprising part of a process by which government decisions and policies are formulated. *FTC v. Warner Communications, Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984). Assertion of the deliberative process privileges requires: (1) a formal claim of privilege by the head of the department having control over the requested information; (2) assertion of the privilege based on actual personal consideration by that official; and (3) -

counsel of the United States House of Representatives Committee on Energy and Commerce
Subcommittee on Oversight and Investigations Motion at 12:14; Opposition at 12:23