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6 **UNITED STATES DISTRICT COURT**  
7 **NORTHERN DISTRICT OF CALIFORNIA**  
8 **SAN FRANCISCO DIVISION**

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10 CENTURY ALUMINUM COMPANY, et al.,

11 Plaintiffs,

12 v.

13 AGCS MARINE INSURANCE CO.,

14 Defendant.  
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Case No. 11-cv-02514 EMC (NC)

**ORDER RE: DISCOVERY  
DISPUTES**

Re: Dkt. Nos. 65, 84

18 The parties submitted joint letter briefs concerning their continued disputes as to  
19 Century/Nordural's responses to document request Nos. 28, 37, and 40-59, Dkt. No. 65,  
20 and responses to interrogatory request Nos. 10 and 12, Dkt. No. 84.<sup>1</sup> The parties  
21 attended a discovery conference on May 4, 2012. After considering the representations  
22 made by the parties at the conference and the parties' joint letter briefs, Dkt. Nos. 65 and  
23 84, the Court orders as follows:

24 **Interrogatories**

25 In their most recent letter brief to the Court, Dkt. No. 84, the parties raise  
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27 <sup>1</sup> While AGCS asserts that it seeks further documents from Century/Nordural in response  
28 to document request No. 58, it fails to address the request in the parties' joint letter brief. *See*  
Dkt. No. 65. Accordingly, AGCS's motion to compel further documents in response to request  
No. 58 is DENIED.

1 additional disputes relating to Century/Nordural's responses to interrogatories Nos. 10  
2 and 12. Through these interrogatories AGCS seeks information regarding  
3 Century/Nordural's property damage and consequential damage claims. As  
4 Century/Nordural asserts in the joint letter brief "Century has identified all unique  
5 responsive documents, subject of course to its right to amend the responses if documents  
6 were inadvertently omitted or are subsequently discovered." Dkt. No. 84 at 3. The  
7 Court finds Century/Nordural's responses to be sufficient with one exception.  
8 Century/Nordural is to delete the "see, e.g." reference from its interrogatory responses.  
9 Century/Nordural is to serve on AGCS its verified supplemental responses to  
10 interrogatories Nos. 10 and 12 within 30 days of the filing date of this order.

### 11 **Document Requests**

#### 12 **1. Discovery Concerning All Insurance for Transformer #11**

13 AGCS request for production No. 28 seeks all documents pertaining to the  
14 solicitation, procurement, negotiation, placement, and/or underwriting of any insurance  
15 by plaintiffs for Transformer #11 since 1998. Century/Nordural previously produced all  
16 documents relating to the insurance policy at issue, and all other policies that covered  
17 Transformer #11 for any risk at the time of loss, and insurance purchased to replace the  
18 AGCS policy. The Court finds that requests for other insurance policies procured for  
19 Transformer #11 dating back to 1998 are not relevant and are not reasonably calculated  
20 to lead to the discovery of admissible evidence. Accordingly, AGCS's request for  
21 insurance policies and documents pertaining to solicitation, procurement, negotiation,  
22 placement, and/or underwriting of those policies beyond documents already produced by  
23 Century/Nordural is DENIED.

#### 24 **2. Discovery Concerning "Business Interruption" Claims**

##### 25 **A. Temporal Scope**

26 AGCS moves to compel further responses to request Nos. 37, 40-46, 49-54 and 57  
27 relating to the alleged "business interruption" incurred by plaintiffs as a result of the loss  
28 of planned use of Transformer #11. The Court agrees with Century/Nordural that a

1 temporal limit of July 1, 2009, one year prior to the alleged “business interruption,”  
2 through July 1, 2011, one year following, is proper. Documents from this two-year time  
3 period are sufficient for AGCS to compare production prior and subsequent to the  
4 alleged business interruption. Accordingly, AGCS’s motion to compel further responses  
5 to document request Nos. 37, 40-46, 49-54 and 57 is DENIED to the extent AGCS seeks  
6 additional documents from before July 1, 2009 or after July 1, 2011.

7 **B. Hawesville and Ravenswood Plants**

8 AGCS requests documents concerning schematics, inventory positions, and  
9 financial documents of Century’s Hawesville, Kentucky and Ravenswood, West Virginia  
10 plants. The Court agrees with Century/Nordural that these requests are overly broad and  
11 unduly burdensome. The Hawesville and Ravenswood plants are not involved in this  
12 case and AGCS has failed to meet its burden to establish relevance of information  
13 pertaining to separate plants outfitted to make different products than those made at  
14 Nordural. Century/Nordural has offered to provide a declaration from Century’s risk  
15 manager, Virginia Lawson, explaining why such production replacement would have  
16 been impossible or economically infeasible. *See* Dkt. No. 65 at 5. AGCS document  
17 requests seeking additional information regarding the Hawesville and Ravenswood  
18 plants are DENIED subject to Century/Nordural’s production of Ms. Lawson’s  
19 declaration. Century/Nordural is ordered to submit Ms. Lawson’s declaration to AGCS  
20 within 14 days of the filing date of this order.

21 **3. Discovery Concerning Plant Schematics and Inventory Position**

22 AGCS requests for production Nos. 47 and 48 seek documents concerning plant  
23 schematics and inventory position for Century’s Grundartangi, Hawesville, and  
24 Ravenswood plants. The Court understands that Century/Nordural previously provided  
25 the requested information as to the Grundartangi plant. To the extent the requests seek  
26 information regarding the Hawesville and Ravenswood plants, they are overly broad and  
27 unduly burdensome and are DENIED subject to Century/Nordural’s production of Ms.  
28 Lawson’s declaration.

1     **4.     Discovery Concerning Maintenance of Other Transformers**

2             AGCS request No. 55 seeks documents concerning the historical maintenance of  
3 transformers at the Grundartangi plant dating back to 1998. This request, to the extent it  
4 does not concern maintenance to Transformer #11, is overly broad and unduly  
5 burdensome. AGCS asserts relevance exists as to the issue of “damage to the  
6 transformers in general and Plaintiff’s business interruption claim.” Dkt. No. 65 at 2.  
7 Whether or not there were problems with other transformers and whether these  
8 transformers were properly maintained is not at issue here, however, as this case  
9 concerns only damages sustained by Transformer # 11 in ocean transit. This request also  
10 lacks in relevance as to Century/Nordural’s business interruption claim. For these  
11 reasons, the Court DENIES AGCS’s document request No. 55 seeking additional  
12 documents concerning maintenance of other transformers.

13     **5.     Discovery Concerning Nordural’s Financial Information/Capital Expenditures**

14             Regarding Century/Nordural’s responses to document request No. 56, AGCS’s  
15 motion to compel further responses is DENIED. Century/Nordural previously produced  
16 more than 30,000 pages of information regarding Nordural’s financial profile from July  
17 1, 2009 through July 1, 2011. The Court agrees that the information provided for one  
18 year prior to the business income loss to one year following the loss is sufficient for  
19 AGCS to evaluate Nordural’s financial information and capital expenditures during the  
20 period of the business income loss.

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1 **6. Discovery Concerning Electrical Disturbances**

2 AGCS request No. 59 seeks documents relating to the “electrical disturbances”  
3 that occurred at the Grundartangi plant on or about September 1 and 9, 2010. AGCS’s  
4 motion to compel this category of documents is DENIED as moot. Century/Nordural  
5 represented that it previously provided supplemental responses to this request.

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7 IT IS SO ORDERED.

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9 DATED: April 4, 2012

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11 NATHANAEL M. COUSINS  
12 United States Magistrate Judge  
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