

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:) Docket No. 01-AFC-4
)
Application for Certification for the East Altamont)
Energy Center)
)
_____)

**ALAMEDA COUNTY FIRE DEPARTMENT'S
COMMENTS ON RPMPD**

June 2, 2003

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The Alameda County Fire Department (ACFD) submits these comments on the Revised Presiding Member's Proposed Decision (RPMPD) in this Application for Certification proceedings for the East Altamont Energy Center (EAEC).

After reviewing the RPMPD Findings and Conclusions, the ACFD respectfully requests that findings #9 and #10 and Worker Safety Condition #4 be reconsidered and stricken from the RPMPD. ACFD has many legal as well as operational issues with the proposed conditions.

Finding #9 states, "Alameda County's provision of EMS services alone (without a mutual aid agreement) would not be sufficient to service the EAEC." Currently, the ACFD provides first responder fire and medical services to all of eastern Alameda County. This is accomplished through the use of a paramedic Engine Company staffed with 4 personnel. The Tracy Fire Department (TFD) if contracted as finding #10 proposes will respond with a two person Engine Company with only emergency medical technicians. This is a considerably lower level of medical service, with paramedic service not arriving until the ambulance arrives on scene. The ambulance response time is considerably longer than the ACFD response even with the ACFD responding in heavy traffic conditions. We believe the EAEC employees deserve the same high level of medical response that all residents and workers in eastern Alameda currently receive.

Finding #10 requires the EAEC to contract with the Tracy Fire Department (TFD), to "provide first response to EAEC emergency incidents (including fire, EMT, hazardous materials), personnel, training and equipment purchases." The ACFD has significant objections to this recommendation and the potential implications on how fire, medical, and hazardous materials responses are provided to the EAEC. This is an ill advised, and counter-productive

measure to provide for the optimum safety for the EAEC workers and residents of the surrounding areas.

The TFD has no authority to provide first responder services in Alameda County without the consent of the ACFD. Therefore, any condition requiring EAEC to contract with TFD could not be implemented without first obtaining the approval of the ACFD. All agreements for first response fire service within the ACFD jurisdiction must be initiated and approved by the ACFD. All agreements for first response medical must be initiated and approved by the Alameda County Emergency Medical Services Agency. TFD Emergency Medical Technicians must be authorized as first responders within Alameda County, and trained to the County protocols.

In Alameda County fire department based paramedic first response is a county wide standard. The CEC is proposing reducing the level of service to the EAEC by contracting with TFD for EMT based first response. TFD has no paramedic services and will have to wait for an ambulance to provide advanced life saving skills. This will make the ambulance response critical to getting a paramedic on the scene. The response times for ambulances are considerably longer than the ACFD response times

The ACFD is under contract with the Alameda County Emergency Medical Services Agency as are all fire departments in Alameda County to provide fire based paramedic service. Any change in that level of service within the ACFD jurisdiction would violate the contract and place ACFD funding in jeopardy.

If EAEC contracts with TFD, is the expectation of the CEC that the first response Engine will respond from the Mountain House Station or the existing TFD Station near Patterson Pass Rd.? The Mountain House Community Services District (MHCSA) is contracting with TFD for

fire and medical response. Based on the letter from the MHCSO to the CEC dated December 14, 2001, the MHCSO expects compensation if the Engine Company they are funding is used to provide first response to the EAEC.

If TFD were to receive funding for first response, the first due Engine would respond from Schulte Rd. at Patterson Pass Rd., which would take 10 minutes. The ACFD response time to the EAEC is 10 minutes.

Under this agreement, it is not clear if the CEC would have the EAEC making direct contact with the TFD, by passing the 911 system when they have a fire or medical emergency.

If TFD responds to a fire at the EAEC, do they take full responsibility for fire control investigation and subsequent overhaul?

The TFD Engine that would respond to the EAEC is staffed with two personnel. Based on Federal Occupational Health Safety Agency (OSHA) regulations, they are not allowed to initiate an interior fire attack until two additional personnel arrive on the scene; this is called the two-in, two-out rule. This would require TFD to send an additional Engine Company or notify ACFD, so our resources can be dispatched to the scene. Depending on the location of the second TFD Engine, and there is some question if they would respond under the proposed contract, significant delays could occur.

If TFD is expected to handle first response to fires, then the ACFD would not necessarily know if an incident was in progress, and would have to wait for TFD to arrive on the scene before our resources could be notified, causing significant delays in getting sufficient resources on scene.

It is not clear what the CEC expectation of a TFD response to a reported fire would be. The ACFD would send 16 personnel and two Chiefs for a reported fire. TFD may not have that many personnel on duty.

Is the contract with TFD for ten years or does it continue as long as the power plant is in operation? Is it the intent of the CEC that you would monitor contract compliance and review response times, levels of service and assume responsibility for all liability that could result due to this contract?

The TFD has no Hazardous Materials Response Team. Who will provide this service? Will TFD be expected to contract for those services? If TFD decides to start a team, who will be responsible for certifying that the team is capable of responding? The ACFD has a hazardous materials response team and maintains a minimum daily staffing of 6 hazardous materials specialists equipped and prepared to respond.

County Counsel notes that for such a condition to be implemented it would require the approval of several other public agencies. The consent of the Alameda County Board of Supervisors would have to be obtained. The ACFD is a dependant special district organized under the Fire Protection District Law (Health and Safety Code §§13801 *et seq.*). Its governing body is the Board of Supervisors. (§13835.) The Fire Protection District law reserves to the local jurisdiction control over the types, levels, and availability of fire services, emergency medical services, hazardous material emergency response services, and other services critical to the public health and welfare of the local government. (§13801.) This local control policy is reflected in Health and Safety Code §13050, which states:

The apparatus, equipment and firefighting force of any public entity may be used for the purpose of providing fire protection or firefighting services: [¶] (a) In any other public entity with the consent of the chief administrative officer of the office or department authorized by law to provided fire protection in such other public entity.

The EAEC is located within the boundaries of the ACFD's jurisdiction. As the governing body of the ACFD, the Board of Supervisors would be charged with making the decision to authorize the Fire Chief to consent or deny consent to TFD to provide initial responder services to the EAEC.

We are advised that the TFD is an independent special district also organized pursuant to the Fire Protection District Law. Therefore, both fire departments are subject to the Cortese-Knox-Hertzberg Local Reorganization Act. (Government Code §§56000 *et seq.*) (Health and Safety Code §13812.) Before the TFD could provide initial fire services to the EAEC, it would have to apply to and receive permission from the San Joaquin County Local Agency Formation Commission. (Government Code §56133.) The San Joaquin County Local Agency Formation Commission would be obliged to work with the Alameda County Local Agency Formation Commission, as the service would be provided in the jurisdiction of the latter. (Government Code §56124.) For the substantive reasons discussed above, it is highly unlikely that the Alameda County Board of Supervisors and the two Local Agency Formation Commissions would approve a contract for fire services to be provided by the TFD located in San Joaquin County to the EAEC located outside TFD's jurisdiction in Alameda County.

As these proceedings have moved forward, the ACFD has tried to be supportive of the CEC and the applicant providing all the necessary information and professional insight as to the

provision of fire and life safety serves to the EAEC. There have been many misstatements regarding the ACFD and the level and types of services provided. Some of them we have let pass, as we felt they had no bearing on the substantive issues related to the EAEC project. However with the inclusion of findings 9 and 10, and Worker Safety Condition #4 and the implications associated with the findings leave the ACFD with no choice now but to correct the misstatements. On January 5, 2001 Intervenor Sarvy filed exhibit 12 Docket #25837.

Intervenor Sarvy made statements including “Tracy Rural is the first response to a fire or emergency at the project location not the Alameda County Fire Department.” The ACFD is the first responder agency to the project location as well as “all of eastern Alameda County,” and there is no expectation of that changing. The County of Alameda and the ACFD will take whatever steps are necessary to maintain that responsibility. Intervenor Sarvy also goes on to state, “Tracy Rural expends 30% of its resources to fight fires and provide Emergency Services to Alameda County but receives little or no mutual aid from Alameda County.” Under the public records act, a request was made (see attached letter dated April 23, 2003) to the Stockton Fire Department to provide dispatch records for all of the Tracy Engines and their responses into Alameda County for the period July 1, 2002 to December 31, 2002. Subsequent follow up by Captain Randy Moore of the ACFD and Captain Hurtado of the Stockton Fire Department reveal that of the 1612 responses during the time period in question, TFD responded into Alameda County 16 times, ACFD responded into Tracy Rural area 11 times, and there were 11 responses that jurisdiction could not be determined (see memo dated May 23, 2003). If the 16 TFD into Alameda County were grouped with the 11 undetermined responses, it would represent 1.6% of Tracy Rural’s responses, not 30% as stated by Intervenor Sarvy.

The ACFD is an organization that prides itself on providing a very high level of service to all the unincorporated areas of Alameda County including all of eastern Alameda County, and fully expects to be the agency responsible for all response to the EAEC. Findings 9 and 10 And Worker Safety Condition #4 are not consistent with law and will be challenged by Alameda County and the ACFD as they violate the basic sovereignty of a jurisdiction and its ability to provide service within its legally constituted boundaries.

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Respectfully submitted,

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