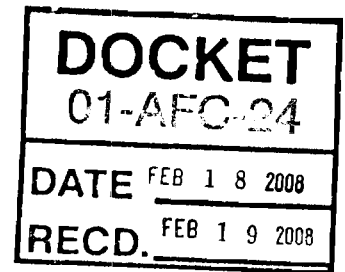


February 18, 2008

California Energy Commission  
Office of Chief Counsel  
1516 Ninth Street, MS-14  
Sacramento, Ca 95814  
(916) 654-5076



Subject: Staff Response Regarding Public Health & Safety Complaints  
Palomar Energy Center (PEC) Docket No. 01-AFC-24C

To: Chief Counsel (CEC) William Chamberlain  
[mtran@energy.state.ca.us](mailto:mtran@energy.state.ca.us) (Secretary)  
cc: Senior Staff Counsel Kevin W. Bell [kwbell@energy.state.ca.us](mailto:kwbell@energy.state.ca.us)  
Compliance Site Manager (CEC) Paula David [Pdavid@energy.state.ca.us](mailto:Pdavid@energy.state.ca.us)  
Public Advisors Office (PAO) Nick Bartsch [Nbartsch@energy.state.ca.us](mailto:Nbartsch@energy.state.ca.us)  
Susan Gefter (CEC) Hearing Officer [sgefter@energy.state.ca.us](mailto:sgefter@energy.state.ca.us)

Acting Director, SDAPCD, Raymond Fernandez [Raymond.Fernandez@sdcounty.ca.gov](mailto:Raymond.Fernandez@sdcounty.ca.gov)  
Compliance Chief, Scott Underhill [Scott.Underhill@sdcounty.ca.gov](mailto:Scott.Underhill@sdcounty.ca.gov)  
Gary Hartnett [Gary.Hartnett@sdcounty.ca.gov](mailto:Gary.Hartnett@sdcounty.ca.gov)  
John Annicchiarico [John.Annicchiarico@sdcounty.ca.gov](mailto:John.Annicchiarico@sdcounty.ca.gov)

The response from the CEC Staff regarding the non-compliance complaints I've filed is an easy solution to avoid addressing the deficiencies in the Palomar Energy Center (PEC) overall analysis. Using the excuse of the complainant failing to comply with informational requirements thus being insufficient, as well as lacking merit fails to point out the fact that the information staff is seeking should have been supplied by the CEC Staff or by the applicant during the licensing of the PEC. In its attempt to discredit the complainant unfamiliar with the Energy Commission's regulations I must assume the references I did submit to the Compliance Division on multiple occasions with regards to the operation of the PEC over the past two years along with evidence from other facilities that are currently going through the licensing process were not made available or ignored in the staff's decision.

It has not been uncommon for the Compliance Division to protect/screen the applicant from issues either by waiting for the facility to correct problems before making site inspections (email traffic identified in VIS-8 complaint between Sempra & Dale Edwards) (months to respond to Bimbo complaint). Additional examples of these are the misrepresentation of actual data by the applicant (Professional Board of Engineers Document); denying property ownership or responsibility during site construction runoff violations (Merkel & Associates Documents); no plume releases identified in the on-site log (email traffic between CEC CPM & SDG&E CPM) or the latest petition for chiller modification which never got any type of reply from the current CPM when submitting statements/evidence for proposed modifications. All of these as well as others were brought forward to the Compliance Division with either no response, CPM retirement or lack of time was identified for the reason of not responding.

Two years of operation and no reaction or enforcement by the Compliance Division other than the facility is meeting its VIS-8 requirements even when evidence submitted showed otherwise eventually resulted in additional attempts to get the problem addressed via "Nuisance Complaints" with the SDAPCD but because this was only considered a water vapor plume by the district there was no further action taken. This directly reflects no compliance enforcement or attempts by the facility owner to utilize maximum plume abatement requirements until the Bimbo Bakery investigation; unfortunately this was only a temporary adjustment until additional complaints were filed.

The Public Health issue raised in my complaint was only addressed in the staff response with regards to PH-1 which has nothing to do with the issues raised. No study has ever been performed for the PEC with regards to the use of reclaimed water while on-site monitoring is non-existent even with the known

discharge violation from the Escondido HARRF facility in the past. The biocide treatment identified in staff's response only addresses Legionella and has no impact on what was identified in the complaint filed. An example of this same effort is brought forward in the **Vernon Power Plant Project (06-AFC-4)** from the Air Resources Board on the subject of health risk assessment against the CEC which states, "The minimal information provided was poorly presented, inconsistent, and incomplete; therefore, the health risk assessment for this site may be unreliable" to the Stationary Source Division. The issues regarding cooling tower plumes for this very project references the PEC and its impacts to food processing yet in the case of the PEC it also results in additional impacts to the public itself not yet addressed along with impacts to future patients of the hospital.

The staff response also avoided the aviation safety issue which once again points out the lack/failure in the transfer of information which was provided to the CPM along with a follow-up on 1/31/08 in this process with regards to the **Russell City Energy Center (RCEC) (01-AFC-7C)** project currently under review by the CEC with its Vertical Plume Assessment. When an investigation of the log by the CEC staff indicates no plume system overrides while on the other hand it also indicates no plume releases which was indicated in email traffic cited in one of my complaints it hardly indicates validity or merit in what is called a thorough review. Separate proceedings referenced by the current CPM with regards to Public Safety uses data misrepresented and supplied by the CEC with regards to the night time operation and size of plumes generated at the PEC that were completely disregarded. It also incorrectly indicates that the health district's helicopter pilots have tested various take off and approach paths that would avoid PEC plumes. Public Records Requests clearly indicates that the health district does not have any flight plans or logs of any air vehicle used in the analysis of the new heli-stop nor does it acknowledge any vertical plume assessment. Speaking with health district Heliplanners it was stated that they have no intention of doing any further analysis unless directed by the health district. This CEC investigation yet again fails to address the past two years of operation that was allowed by the Compliance Division.

Failure to consider all these issues points out the lack of merit and validity in the current CEC Staff response to the complaints filed. If the information provided throughout this process and documented operation of the PEC is not utilized by the CEC in their investigation it hardly justifies its response.

While supplying an official signed document would satisfy the CEC procedural process it apparently doesn't necessarily indicate any validity shown with the responses by the staff in their process that once again only attempts to discredit myself. Whether this document requires the same, I will submit by mail a document with my signature once I receive acknowledgement of receipt electronically.

Thank you for your time and attention to the matter.

//Signed//

Mark Rodriguez  
945 Chardonney Way  
Escondido, CA 92029  
[marknrodriguez@cox.net](mailto:marknrodriguez@cox.net) (858) 312-2696 work