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FIRESCOPE

FIRE AND RESCUE SERVICE ADVISORY COMMITTEE/ FIRESCOPE BOARD OF DIRECTORS

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To the California Fire Service:

The FIRESCOPE Board of Directors approved this document at its July 9, 2008 meeting. This document is intended to provide guidelines when encountering private fire resources, utility companies, etc. on incidents.

Recently, private fire resources have been on the Juliet and Sesnon fires. The caliber of these resources varies depending upon the insurance company that contracts with the private vendor. This ranges from a vendor that reports to the ICP, has fire qualified staff, attends briefings, has compatible radios and complies with all road closures and motor vehicle rules to the "wildcat" vendors that do the opposite.

These guidelines are intended to provide general direction for command staff. FIRESCOPE supports the use of private vendors to perform pre-suppression fuels treatment and steps to protect structures prior to the fire's arrival, but they should not work within an area under evacuation orders.

Private Resource Utilization Guidelines

Issue

The issue before the fire service today is how to address the command, control, liability and safety issues associated with private resources.

Discussion

Private resources (contractors) may be allowed to operate on an emergency incident (within a restricted area) only if they are under contract to the AHJ or cooperating fire agency. Private fire brigades may also be integrated within the incident if they have legal authority and jurisdiction to operate, are fully qualified and have a working relationship with neighboring fire agencies. These private resources are held to the same operational and training standards as public fire agencies. Initial legal review indicates that the AHJ/IC has the authority to restrict resources that may enter a closed area. Private property owners have the legal right to protect their property if they are on-site during the emergency incident, but once evacuated are not allowed re-entry during said incident when a mandatory evacuation order is in place.

All other private resources utilized should be restricted to non-emergency activities outside of the evacuated or restricted area to ensure safety, command, control and minimize potential liability issues. Private resources may include utility companies, contractors or laborers providing defensible space/ fire protection, etc. These resources have a role before, during and after the emergency incident, but only within areas deemed safe and have the expressed authorization of the AHJ/IC. If they are given evacuation orders, they must comply.

The fire service needs to work with the insurance companies to safely utilize private fire protection resources. As the nation is witnessing, there are more fires and threatened structures today than public and private fire protection forces can respond to. Most of these services advertise that they will respond if a fire is within three miles of the insured property. With that said, it seems that the paramount marketing tool for the insurance companies should be that they endorse property owners adhering to FIREWISE or similar prevention/protection standards yearlong. A homeowner will be better off using private resources to create defensible space, retrofit structures to a modern wildland building code and installing fire suppression systems (internal & external) so the structure can survive a wildland fire even if a fire protection services cannot arrive prior to the fire. This is particularly important, as most structures are lost in the initial attack phase of wildland fires.

Command, Control, Liability, & Safety

The emerging private fire protection industry is not regulated and does not have any local, State, Federal, National standards, or enabling legal authority to follow while employing staff or responding to incidents. Many follow NWCG guidelines, employ off-duty/retired or experienced firefighters, but the AHJ/IC may not know their true ability/capability. Some vendors have already appeared unannounced on fires, violating road closures while trying to sell their services to homeowners during a developing crisis.

The AHJ/IC must be able to account for all resources under his/her command, especially when evacuation orders are given. The AHJ/IC is responsible and now proven to be liable for unsafe acts. Therefore, allowing additional resources within a closed hazard area without compatible communications, standardized training, certifications and qualifications, and so forth can compromise safety as well as obstruct ingress/egress of firefighters and public.

Background

Over the past few years, insurance companies have seen an increase in their insured property losses due to wildfires. This development has spawned a resurgence of interests from private vendors and the insurance industry to offer what they claim to be an augmentation of traditional public fire protection services. Further evaluations also indicate that the coordination of utility company resources and other private vendors is not well addressed on emergency incidents.

In order to insure the protection of the public, first responders and the private resource operators themselves, it is incumbent on the fire service (local, state & federal) today to clarify the potential impact of these operations and clearly establish command, control, liability and safety parameters under which private resources can operate on incidents.

Appendix A Private Resource Guidelines

The following guidelines serve as a tool for the AHJ/IC in managing private resources on incidents:

1. All private resources must respect the decision of the AHJ/IC as they're the final decision makers in the command, control, liability and safety of the incident.
2. The AHJ/IC and law enforcement has complete authority and legal right to control an emergency incident. Private resources are not first responders and are

completely subject to the directions and limits set forth by public safety agency personnel. The private resource has no claim or stake in unified command and will not have any role in incident command.

3. Private resource vendors shall provide a representative that reports to the Incident Commander or the Liaison Officer and can communicate with their resources.
 - a. This representative shall attend all planning and operational briefings and should be available to represent said entity in regards to qualifications and specific interests to be involved, etc.
 - b. Private resources are responsible to communicate their location and movements through the private resource representative to the Incident Commander/Liaison Officer.
 - c. Failure to notify the Incident Commander/Liaison Officer of the location or movement of private resources could subject them to removal from the incident.
4. Private resources shall check-in with the Incident Commander prior to deployment within an emergency area. ICs need to maintain situational awareness regarding private resources and their compliance with evacuation orders.
5. A message should be included in the incident action plan and briefed at operational briefings regarding known private resources activity on or near the incident.
6. Private resources must be able to monitor incident radio traffic so they maintain situational awareness and know when an area is being evacuated/ restricted. They shall refrain from using incident radio frequencies.
7. Private resources should focus their activities on pre-fire activities and pretreatment of values-at-risk prior to a road closure order.
 - a. Once a road closure is ordered, they must evacuate the area so safety is not compromised and cannot return until the area is reopened, or until they have received IC authorization to re-enter.
 - b. If the private resource does not evacuate the area, the private resource assumes full responsibility for the safety of the resource, personnel and equipment.
 - c. The AHJ/IC should not be held liable for any loss, injury or death.
8. The IC or local law enforcement officials having jurisdiction must authorize access to any community under evacuation/restriction.
9. Private fire protection resource contractors who are employed on an incident (as a local, State or Federal resource) are not allowed to sub contract with the insurance industry or freelance to local home owners while mobilized on the incident.
10. Private resources not under contract to a public fire agency shall adhere to all local business license provisions.
11. All private fire protection resources should be identified (non-emergency) on the outside of the vehicle, to ensure they do not appear to be a public fire resource. This includes no red lights, sirens or facsimile fire agency decal.
12. During fires where a community meeting is hosted by the AHJ/IC, a clear understanding must be created with the general public as to the role of government in incident command and private resources.

Memorandum

To: Region Chiefs
Assistant Region Chiefs
Unit Chiefs
Contract County Chiefs

Date: December 29, 2008

Telephone: (916) 653-7772

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From: RUBEN GRIJALVA, Director
Department of Forestry and Fire Protection (CAL FIRE)

Subject: OPERATIONS
Private Resource Utilization

With the emergence of private resources providing services to clients of insurance companies in the wildland urban interface, many questions have been brought forward related to command and control, safety, and accountability within an emergency incident environment. These issues are being discussed and addressed in the fire service community throughout the country. While several entities are providing guidelines, including IAFC and FIRESCOPE, I felt it was necessary to provide direction to CAL FIRE employees and guidelines for contract counties providing SRA protection.

Private resources (contractors) may be allowed to operate on an emergency incident, within a restricted area, only if they are under contract (by order and request number) to the agency having jurisdiction. Private fire brigades may also be integrated within the incident if they have legal authority and jurisdiction to operate, are fully qualified and have a working relationship with neighboring fire agencies.

All other private resources should be restricted to non-emergency activities outside of the evacuated or restricted area to ensure safety, command and control, and minimize potential liability issues. Private resources may include utility companies, contractors or laborers providing defensible space/ fire protection, etc. These resources have a role before, during and after the emergency incident, but only within areas deemed safe and with the expressed authorization of the Incident Commander. If they are given evacuation orders, they must comply.

Private property owners have the legal right to protect their property if they are on-site during the emergency incident, but are not allowed re-entry during said incident when a mandatory evacuation order is in place.

Private Resource Guidelines

- The Incident Commander and law enforcement have complete authority and legal right to control an emergency incident. Private resources are not first responders and are completely subject to the directions and limits set forth by public safety agency personnel. The private resource has no claim or stake in unified command and will not have any role in incident command.
- Private resource vendors shall provide a representative that reports to the Incident Commander or designee and can communicate with their resources. Private resources are responsible to communicate their location and movements through the private resource representative to the Incident Commander or designee.
- Incident Commanders and line resources need to maintain situational awareness regarding private resources and their compliance with evacuation orders.
- A message should be included in the incident action plan and briefed at operational briefings regarding known private resources activity on or near the incident.
- Private resources shall refrain from using incident radio frequencies.
- Private resources should focus their activities on pre-fire activities and pretreatment of values-at-risk prior to an evacuation order. Once an evacuation is ordered, they must comply and leave the area and cannot return until the area is reopened, or until they have received authorization to re-enter. The Incident Commander or local law enforcement officials having jurisdiction must authorize access to any community under evacuation/restriction.
- Private fire protection resource contractors who are employed on an incident (as a local, State or Federal resource) are not allowed to sub contract with the insurance industry or freelance to local home owners while mobilized on the incident.

cc: Ken McLean, Deputy Director, Fire Protection Programs
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