

## DOCKETED

<b>Docket Number:</b>	13-CAI-01
<b>Project Title:</b>	Robert Landwehr Request for Investigation and Complaint
<b>TN #:</b>	200409
<b>Document Title:</b>	City of Victorville Comments to Landwehr's Request for Investigation and Complaint
<b>Description:</b>	Comment Letter from Victorville City Attorney
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<b>Organization:</b>	Green, de Bortnowsky & Quintanilla, LLP
<b>Submitter Role:</b>	Applicant's Representative
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Reply to:  
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September 6, 2013

California Energy Commission  
Dockets Unit  
1516 9th Street, MS-4  
Sacramento, CA 95814  
Docket No. 13-CAI-01

Re: **City of Victorville's Comments to Mr. Robert Landwehr's Request for Investigation and Complaint (TN# 200206); Docket No. 13-CAI-01; September 11, 2013 Business Meeting Agenda Item No. 7**

Honorable Energy Commission Members:

I am the City Attorney for the City of Victorville ("City"), and a partner in the law firm of Green, de Bortnowsky & Quintanilla, LLP. I write on behalf of the City to briefly respond to the above-referenced August 16, 2013 filing made by Mr. Landwehr in Docket No. 13-CAI-01.

Mr. Landwehr alleges that an e-mail sent by City Manager Doug Robertson to California Energy Commission ("CEC") Commissioner Douglas on May 8, 2013 was a prohibited ex parte communication. A close review of the e-mail in question reveals that it is little more than a "thank you" note sent in response to the public release and docketing of CEC Staff's Recommendation and Analysis report ("Report") regarding the City's Petition ("Petition") to extend the construction completion date for the VV2 project. The e-mail contains no information that was not already stated in the City's Petition or the Report, and is merely an expression of gratitude for Staff's consideration and an offer to provide any further information required by the CEC at the June 12, 2013 hearing. Moreover, there is no evidence that Commissioner Douglas ever received or even read the e-mail in question. Commissioner Douglas did not respond with a return email or phone call, and Mr. Robertson made no other attempt to communicate further.

Although I cannot speak to the CEC's standards for determining what constitutes an ex parte communication that would require a Commissioner to be 'disqualified' and necessitate the re-opening of a proceeding, the City Council and its Planning Commission are often involved in similar quasi-adjudicatory proceedings with respect to applicants for permits and other land use entitlements. Based on this experience and the common law standard applicable in this area, it seems highly unlikely that this e-mail could in any way be deemed to have improperly influenced or created a bias for Commissioner Douglas in the VV2 Petition proceeding.

Mr. Landwehr's allegations of impropriety are without merit. They are a desperate attempt to change what has already been properly decided. They merely represent and further constitute reckless and offensive attacks on the reputations of CEC Commissioners, Staff and City personnel.

If I can provide any additional information or if you have any questions, please do not hesitate to contact me.

Very truly yours,

GREEN, de BORTNOWSKY & QUINTANILLA, LLP

*ORIGINAL SIGNED BY*

Andre de Bortnowsky

AdB:law

cc: Doug Robertson, City Manager

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