

Jan. 12 2017

Transfer: 79943 Albion 12 Investments LLC

Post hearing brief:

To: James Cefalo hearing officer IDWR,

In response to hearing proceedings held December 8, 2016 supporting testimony offered by

Expert witness for Albion 12 LLC Eric Powell, please consider the following observations:

My contention is that both the issue of "injury" and "public interest" will be infringed should the Proposed transfer be approved. Mr. Powell referred to a "Tice analysis" to support the notion that the Underlying water strata would not be measurably impacted to a degree that would have effect on down Flow rights be it wells or live springs. During cross examination of Mr. Powell's testimony, an attempt was Made to find creditability that might validate the Tice analysis and if it could anticipate pumping effect With accuracy or certainty particularly given the unique and limited nature of the Howell creek surface And subterranean zone. Mr. Powell stated that local specific study was very limited as well few irrigation Well logs pertain to local zone that would indicate consistent predictable aquifer strata.

During water master Gunderson's testimony, the issue of concise historical record of spring flows from "Spring Creek" and "No Name Creek" was raised. The information or rather lack of information rendered, Clearly reflected the fact that water production from those two sources has not been rigorously Documented. Additionally, the seasonal spring that rises on our property that sinks has not been Routinely measured. The absence of and or sparsely documented measurement of the afore mentioned Springs would render any assertion that adverse impact from pumping would not occur cannot be Supported by future water flow and is highly speculative at best. Were accurate and concise flow records Maintained on said springs for a period of time prior to pumping then I believe the effect of pumping could be made. One question that continues to circle in my mind, if the applicant and hydraulic Engineers believe the water strata is so robust why was one of the former sites sitting right on top of one of the for mentioned springs and subsequently why do these wells need to be saddled right on top of the Howell creek channel zone and lastly why does it require two holes to generate the quantity of water Sought.

Respectfully submitted, Kevin Smyer

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Department of Water Resources
Eastern Region