

Trotter: Pirate freshman delivering wins in the circle /B1

TUESDAY
TODAY & next morning
HIGH 81 Partly cloudy.
LOW 59 North wind 10 mph.
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Coalition appeals DEP rules

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A number of environmental groups and activists have filed an appeal challenging the state's ruling on the minimum flows and levels set for two Citrus County rivers.

Save the Homosassa River Alliance Inc., the Chassahowitzka River Restoration Committee, Save the Manatee Club Inc., Brad Rimbey, Mitchell Newberger and Priscilla Watkins filed the

appeal March 11 against the Department of Environmental Protection (DEP) in First District Court of Appeal. Their attorney is John R. Thomas of St. Petersburg.

In a news release to the *Chronicle*, the coalition environmental group SOS NOW (Save Our Springs-Nature's Original Wealth) said the appeal "challenges DEP and the Southwest Florida Water Management District

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John R. Thomas
environmental group's attorney.

APPEAL

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for their failure to protect Chassahowitzka and Homosassa Springs against degradation."

The group also said the state misinterprets the law and dismisses an opportunity to protect and restore springs in the Homosassa and Chassahowitzka rivers.

Environmental activists and state officials have been in a tussle over how to set state-mandated minimum flows and levels (MFLs) for the Homosassa and Chassahowitzka river systems. Environmentalists would like to see flow levels set at none and aggressive efforts on the part of the state to restore the already-impaired waterways.

Minimum flows and levels are the percentage levels at which water can be withdrawn from a body of water.

In October of 2012, the water district's board voted to set the MFLs for each river at 3 percent. The water management district staff recommendation was initially for 3 per-

cent and 9 percent respectively for the Homosassa and Chassahowitzka rivers.

The appeal says that in 1992 the state — following the federal Clean Water Act — designated the Chassahowitzka and Homosassa river systems as Outstanding Florida Waters (OFW), therefore requiring that the rivers' exceptional aesthetic, ecological, and recreational value should never be allowed to be degraded.

The challenge additionally noted that the anti-degradation standard of the Clean Water Act also applies to water withdrawals which can reduce water quality or degrade habitat for fish, wildlife or plants.

Portions of both rivers have in recent years been noted by state officials as impaired.

"We are just asking the court to tell DEP that the no-degradation standard applies to "activities" such as water withdrawals that lower water quality or degrade habitat for the fish, wildlife and plants in the OFW," Jim Bitter, the president of the Homosassa

River Alliance, said in the release.

The appeal affidavit said DEP fails to determine consistency with the water resource implementation rule and fails to implement a rule that prohibits application of any specific policy in isolation from other policies and requiring constructions of this to give meaning to all parts of the rule when possible.

The appeal also adds that DEP's final order about the MFLs fails to implement anti-degradation policy to protect against lowering of water quality, "by approving MFLs that expressly allow water withdrawals that may degrade water quality."

During a September 2013 hearing about the new MFLs, a senior attorney with water management district argued that district staff followed all the rules in coming up with the withdrawal numbers.

Adrienne Vining said the district's position is that the rules are consistent with the Water Resource Implementation Rule and they do not negatively impact any water resource values and

are consistent with all relevant water quality standards.

Doug Leeper, water district senior environmental scientist, also said at the time that the district relied on scientific modeling and other data collection to come up with withdrawal levels.

He also said the natural flows for both rivers was at 99 percent. Natural flows are the flows that would exist in the absence of withdrawals.

Leeper said scientists looked at, among other things, water withdrawal impact evaluations; shoreline, sediment and submerged vegetation evaluations; fish and invertebrate; thermal refuge habitat modeling; salinity-based habitat modeling; primary productivity and water quality evaluations and sea level change evaluations.

However, he said they did not look at the transfer of detrital, or debris material, and aesthetic and scenic attributes.

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