

CEPD files to join petition as intervener

Water district opposes it, others

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The Captiva Erosion Prevention District recently filed paperwork to join the petition challenging the water management district's changes to the Caloosahatchee's minimum flows and levels criteria.

At its October meeting, the district's board voted unanimously to consult with its attorney to determine if it had legal grounds to become an intervener in the case. If so, it planned to ask attorney Ralf Brookes, council for the Captiva Community Panel in the case, to also represent the CEPD.

On Oct. 11, Brookes filed the petition to intervene on its behalf as its hired counsel.

The board has allocated \$2,000 for the filing and future representation.

Last month, Sanibel, Fort Myers Beach and Cape Coral filed a joint petition with the Florida Division of Administrative Hearings.

The municipalities questioned the validity of the South Florida Water Management District's "proposed amendments" to the rule on the minimum flows and levels or MLFs.

The SFWMD's board voted to raise the Caloosahatchee MLF criteria from a 30-day flow of 300 cubic feet per second (cfs) to 400 cfs at the Franklin Lock, despite requests for a higher baseline number.

The same day that the CEPD filed to become an intervener, the SFWMD



Attorney Ralf Brookes

standing, which in turn belies their true intent — to redress complaints outside" of the proceeding. It added that Estero's petition appears copied from Fort Myers, and Bonita's one copied from Estero.

In all three of its responses, the district states that it is "disheartened by the insuff-

responded to Fort Myers, Bonita Springs and Estero's separate petitions to become intervenors, which were filed on Oct. 8. In all three instances, it requested that the judge deny the petition or at least strike certain sections within.

It has also asked for sections to be struck from the original joint petition.

In each response, the SFWMD states it opposes the petition because the party "insufficiently pled

standing, which in turn belies their true intent — to redress complaints outside" of the proceeding. It added that Estero's petition appears copied from Fort Myers, and Bonita's one copied from Estero.

In all three of its responses, the district states that it is "disheartened by the insuff-

ficiencies" in the respective petition under review and it is "frustrated that it is forced to draft this response."

It argued that geography and economic interests do not demonstrate standing and that general statements about recreational opportunities are insufficient to demonstrate it. In regards to Fort Myers' petition, the SFWMD additionally argued that property interests do not demonstrate standing.

If the judge found standing, the district asked that allegations of economic impacts and property interests and statements about blue-green algae, red tide and respiratory issues be stricken.

The SFWMD has also responded to the CEPD and CCP, which filed on Oct. 10.

On Oct. 16, it filed opposition responses to both, requesting again that the petitions be denied or sections be struck from the documents. In each separate response,

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Petition

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the district states that the party's "interests are adequately protected and asserted by the existing parties," or the initial petitioners.

For the CCP, the SFWMD argues there are allegations insufficient to demonstrate standing to participate in a Rule Challenge, adding that state law does not grant it standing and an allegation of property and business ownership and residency on Captiva is insufficient to convey standing.

For the CEPD, it argues that statements are "immateral," "irreverent" and

"scandalous." "The court should deny the petition, outright," the distinct states of the CEPD one.

However, if the judge found standing, the district asked that assertions regarding property interest, business ownership and mere residency in the CCP petition and those on blue green algae, respiratory irritation and impacts to tourism and the economy in the CEPD one be struck from the documents.

The SFWMD and the petitioners have each filed motions for a summary final order.