

How to Use This Document

For ease of understanding, this single PDF contains two separate documents, each with its own page numbering:

The Opening Statement — its own pages 1–3

This is the short script you read aloud at the very start of the hearing, before the County presents any evidence. It is for you to speak from — you keep it, you do not hand it in. The lines with a bar on the left are the words to say; the italic lines in brackets tell you when to pause.

Respondent's Exhibit 1 — its own pages 1–15

This is the written document you hand to the Hearing Officer to be entered into the official record. It begins after the opening statement and restarts its page count at “Page 1 of 15.” You do not read it aloud — it goes into the record as a document.

How to Admit Exhibit 1 Into the Record

At the beginning of the hearing, before the County's inspector or any witness testifies, hand one copy of Exhibit 1 to the Hearing Officer and one copy to the County representative. Then say:

“I am tendering a written document titled ‘Respondent’s Written Threshold Objections, Motions, and Statement for Preservation of the Record.’ I ask that it be marked and admitted as Respondent’s Exhibit 1 and included in full in the official record. If admission is declined, I ask that it be treated as a proffer and kept with the record of this proceeding.”

If the Hearing Officer says only “I’ll note it” rather than formally admitting it, that is fine — what matters is that the document is handed up and placed in the record.

Before You Arrive

Fill in your name, case number, citation number, property address, and hearing date, and bring three copies of Exhibit 1 — one for the Hearing Officer, one for the County representative, and one for yourself.

This document provides general educational information and is not legal advice, does not create an attorney-client relationship, and is not an official publication of Miami-Dade County or any court or governmental agency. Hearing officers differ in how they mark and admit documents; confirm local practice before relying on this document.

RESPONDENT'S OPENING STATEMENT FOR THE RECORD

Spoken Script — Read Aloud Before the County Presents Any Evidence

HOW TO USE THIS SCRIPT

Read this at the very start of the hearing, before the County's inspector or any witness testifies. **The lines with a vertical bar on the left are the words to speak.** The italic lines in brackets are instructions to you — do not read them aloud. Speak slowly so the audio recording captures every word, and pause where indicated to let the hearing officer respond.

Fill in the blanks below before you arrive, and bring three copies of Respondent's Exhibit 1: one for the hearing officer, one for the County representative, and one for yourself.

FILL IN BEFORE THE HEARING

Respondent name (as you will say it): _____

Case No.: _____

Citation No.: _____

Property Address: _____

Hearing Date: _____

STEP 1 — APPEARANCE UNDER PROTEST

Good morning. My name is _____. I am the Respondent in this matter, Citation Number _____. I am appearing under protest. My appearance today is not a waiver of any objection, defense, or right, and it is not an admission of jurisdiction, notice, service, or authority of any kind.

[Pause. Wait for the hearing officer to acknowledge you.]

STEP 2 — TENDER RESPONDENT'S EXHIBIT 1

Before the County presents any evidence or testimony, I am tendering a written document titled "Respondent's Written Threshold Objections, Motions, and Statement for Preservation of the Record." I am handing a copy to the hearing officer and a copy to the County representative now.

[Hand one copy to the hearing officer and one copy to the County representative.]

I ask that this document be marked and admitted as Respondent's Exhibit 1 and included in full in the official record. If admission is declined, I ask that it be treated as a proffer and kept with the record of this proceeding.

[Pause. Wait for the hearing officer to rule on admission. If the officer defers, say: "May the record reflect that the ruling on admission is deferred?"]

STEP 3 — RECORDING AND ORDER OF PROCEEDINGS

I request confirmation that this hearing is being recorded in its entirety, and I request instructions for obtaining the certified recording and transcript after the hearing. I also request that my threshold objections and motions be heard and ruled upon before the County presents substantive testimony.

[Pause. Wait for the hearing officer to respond.]

STEP 4 — PRIMARY DUE-PROCESS OBJECTION (the core — say this clearly)

I object to proceeding on due-process grounds. I was required to submit my evidence approximately two weeks before this hearing. The County did not give me the same advance disclosure of its evidence. The County also provided no working way to reach it before the hearing — the telephone number I was given was not answered, and no other effective method of contact was provided. The County has presented, or seeks to present, its evidence today for the first time.

As a result, I had no meaningful opportunity to inspect the County's evidence, to investigate its scientific theory, to consult a wetland professional, to prepare cross-examination, or to obtain rebuttal evidence. This is a denial of procedural due process under the Fifth and Fourteenth Amendments to the United States Constitution and under Article One, Section Nine of the Florida Constitution.

STEP 5 — MOTIONS: NAME EACH AND REQUEST A RULING

On that basis, I am making the following motions, and I request a ruling on each one, stated on the record, with the specific reason for any denial.

First, I move for a continuance, to allow complete production and review of the County's evidence and methodology record, and time to consult an expert and prepare a defense.

Second, and in the alternative, I move to exclude or limit any evidence the County did not disclose to me in advance.

Third, I move that the County be required to identify, before presenting any evidence, the exact code subsection, the state-law authority, the delegation instrument, the governing hearing procedure, and the corrective remedy and penalty it seeks.

Fourth, I move that the County be required to produce its complete wetland methodology record — the field data forms, field notes, photographs and metadata, GPS coordinates, soils data, hydrology data, boundary maps, and the qualifications of the person who made the determination — before any wetland, surface-water, or hydrology testimony is presented.

Fifth, I move for disclosure of the hearing officer's identity, appointment authority, and any potential conflict, before substantive evidence is heard.

[Pause after the motions and allow the hearing officer to rule. After each ruling you may say: "May the record reflect the ruling and the reason stated?"]

STEP 6 — RESERVATION OF RIGHTS

I reserve every objection and motion contained in Respondent's Exhibit 1, whether or not I have spoken each one aloud. I reserve the right to object during testimony, to cross-examine each witness, to inspect each exhibit before it is admitted, to consult an expert if new technical evidence is introduced, to present rebuttal, and to proffer any excluded evidence. I ask that each objection and motion in Exhibit 1 be treated as pending unless it is expressly withdrawn or ruled upon on the record.

STEP 7 — CLOSING

Everything I have submitted today is submitted under protest. I do not waive any right that is not waived in a writing signed by me. Thank you.

IMPORTANT NOTE — IF YOU WANT THE HEARING POSTPONED

The hearing notice states that a hearing will not be postponed or continued unless a written request showing good cause reaches the hearing officer at least ten (10) calendar days before the hearing. Speaking Motion One at the hearing preserves the continuance issue for the record, but if your real goal is to have the hearing *postponed to another day*, that request should also be made in writing and delivered at least ten days in advance. Otherwise the officer may deny a same-day continuance as untimely. Ask the officer how the ten-day rule is applied.

Document preparation resource: MiamiDade.watch — www.MiamiDade.watch. This document provides general educational and organizational information and is not legal advice, does not create an attorney-client relationship, and is not an official publication of Miami-Dade County or any court or governmental agency. Hearing officers differ in how they mark exhibits and rule on threshold motions; confirm local practice before relying on this script. The speaker is responsible for reviewing, adapting, completing, and verifying the contents before use.

BEFORE THE MIAMI-DADE COUNTY HEARING OFFICER
CODE ENFORCEMENT / ENVIRONMENTAL PROCEEDING
DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT (DERM)

MIAMI-DADE COUNTY,

Petitioner,

v.

_____,
Respondent.

CASE NO.: _____

CITATION NO.: _____

HEARING DATE: _____

PROPERTY ADDRESS: _____

FOLIO NO.: _____

**RESPONDENT'S WRITTEN THRESHOLD OBJECTIONS, MOTIONS,
SCIENTIFIC AND EVIDENTIARY CHALLENGES, AND STATEMENT FOR
PRESERVATION OF THE ADMINISTRATIVE RECORD**

RESPONDENT'S EXHIBIT 1

PRIMARY DUE-PROCESS OBJECTION
Respondent was required to submit evidence approximately two weeks before the hearing. The County did not provide reciprocal advance disclosure, provided no functioning pre-hearing communication channel, and presented or sought to present its evidence on the hearing date. Respondent therefore lacked a meaningful opportunity to inspect the evidence, investigate the County's scientific theory, consult a wetland professional, prepare cross-examination, or obtain rebuttal evidence. Respondent requests a continuance or exclusion of undisclosed evidence before substantive testimony begins.

Nature and purpose. This is the first administrative hearing concerning the County's wetland Notice of Violation. Respondent tenders this document before County testimony or evidence is presented so that every threshold objection, jurisdictional challenge, due-process objection, evidentiary objection, scientific-methodology challenge, motion, defense, and issue reserved for judicial review is expressly stated and incorporated into the administrative record.

Continuing character. These written objections are not exhaustive. Respondent reserves the right to make additional objections, motions, proffers, and requests based on the County's witnesses, testimony, exhibits, scientific claims, legal theories, and rulings as they arise during the hearing.

PART I — APPEARANCE, PROTEST, AND NO WAIVER

Respondent appears under protest and does not waive, and expressly reserves, every objection, defense, motion, constitutional right, statutory right, administrative right, property right, and judicial-review right.

Appearance before the Hearing Officer is not an admission of subject-matter jurisdiction, personal jurisdiction, notice sufficiency, service sufficiency, authority, factual accuracy, methodological validity, scientific reliability, or liability of any kind.

Nothing Respondent says, submits, or does shall be construed as a waiver of any right not expressly waived in a writing signed by Respondent.

PART II — RECORDING, OFFICIAL RECORD, AND ORDER OF PROCEEDINGS

Respondent requests confirmation that the hearing is being recorded in its entirety and requests instructions for obtaining the certified recording and transcript after the hearing.

Respondent submits this written statement as a documentary exhibit to be marked and admitted as part of the official administrative record.

If the hearing is not being recorded in full, Respondent objects to proceeding without a complete verbatim record and requests that recording be arranged before County testimony begins.

Respondent requests that threshold objections concerning jurisdiction, notice, authority, disclosure, witness qualifications, and the order of proof be heard and ruled upon before the County presents substantive wetland testimony.

PART III — DUE PROCESS: ASYMMETRIC DISCLOSURE AND PREJUDICE

1. Asymmetric Pre-Hearing Disclosure

The County required Respondent to submit pre-hearing information, positions, or materials approximately two weeks before the hearing but did not extend the same disclosure obligation to itself.

2. County's Undisclosed Evidence File

The County did not produce with equivalent advance notice its complete enforcement file, inspection reports, field notes, original photographs and available metadata, maps, GIS layers, witness list, exhibits, Rule 62-340 methodology records, Chapter 373 authority or delegation records, or other evidence on which it intends to rely.

3. Resulting Prejudice

This asymmetric procedure deprives Respondent of a meaningful opportunity to review the evidence, prepare a defense, consult an expert, investigate the alleged violation, cross-examine County witnesses effectively, and preserve a complete record for judicial review.

4. Constitutional Ground

Respondent preserves the objection that the procedure denies due process under the Fifth and Fourteenth Amendments to the United States Constitution and Article I, Section 9 of the Florida Constitution. See *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Goldberg v. Kelly*, 397 U.S. 254 (1970).

5. Outstanding Public Records

Public-record requests submitted under Chapter 119, Florida Statutes, to Miami-Dade County, DERM, the County Attorney, and related agencies have not been answered completely or have been produced without materials specifically requested and material to the defense.

6. Material Impairment of the Defense

The failure to provide records material to the charged violation, when combined with the pre-hearing disclosure imposed on Respondent, impairs Respondent's meaningful opportunity to prepare and present a defense.

PART IV — NOTICE AND SERVICE OBJECTIONS

1. Failure to Identify the Exact Code Provision

The Notice of Violation does not identify the exact subsection allegedly violated, the exact conduct prohibited, or the specific factual basis supporting each element of the charge.

2. Failure to Identify Date, Location, and Evidence

The Notice does not identify the exact date of the alleged violation, the exact location within the property, or the exact evidence the County contends supports each element.

3. Failure to Establish Valid Service

Proof of valid service or posting has not been established through an authenticated certificate, affidavit, or other competent record.

4. Insufficient Preparation Time

The time between notice and hearing did not provide meaningful preparation time, particularly because the County did not produce its complete evidence file and material records in advance.

PART V — JURISDICTION, AUTHORITY, AND FORUM

1. Governing Hearing Authority

The County must identify the exact code provision and procedural authority under which the Hearing Officer is acting, including whether this is governed by Chapter 8CC, Chapter 24, or another identified provision.

2. Subject-Matter Jurisdiction

The County has not yet established subject-matter jurisdiction over the alleged violation at this property.

3. Unidentified Enforcement Authority

The County has not identified the exact subsection authorizing the specific enforcement action, corrective remedy, and penalty sought.

4. Delegated State Authority

To the extent the County relies on delegated state environmental authority, Respondent requests production of the statute, rule, delegation instrument, operating agreement, or other source establishing the authority invoked for this particular enforcement action and resource. Respondent specifically requests production of the delegation instrument or operating agreement contemplated by Florida Statute § 373.441 and Rule 62-344, F.A.C., establishing that the State delegated authority to Miami-Dade County for this type of regulatory action at this type of resource. Absent that instrument, Respondent objects that authority to conduct this proceeding under state law has not been established.

5. Director Order

If the County relies on a Director order, Respondent requests production of that order with proof of service and proof of its current legal status.

6. Scope of Hearing-Officer Authority

Respondent requests that the County identify on the record the Hearing Officer's precise authority, the applicable burden of proof, the remedies available, and the procedure governing the final administrative order.

PART VI — BURDEN OF PROOF AND ELEMENT-BY-ELEMENT FINDINGS

Respondent objects to any presumption that DERM's conclusion is correct merely because it was made by a County agency. Agency status does not replace proof. The County bears the burden of establishing the charged violation through evidence placed into the record under the applicable administrative standard.

Respondent requests that the County prove, and that any ruling expressly identify:

1. The exact code subsection charged.
2. The precise prohibited act, omission, or condition.
3. The date and exact location of the alleged act or condition.
4. The person or entity legally responsible for the alleged violation.
5. The factual and legal basis for wetland, surface-water, fill, or environmentally sensitive area jurisdiction.
6. The scientific evidence supporting each required parameter.
7. Why any asserted agricultural protection or defense does not apply.
8. The legal authority for each corrective remedy, penalty, fine, lien, permit consequence, restoration demand, or classification consequence.
9. The burden of proof applied.
10. The reason each material objection or motion is denied.

Respondent further preserves the following arguments in the alternative:

1. Even if jurisdiction exists, the County may fail to prove the alleged wetland or regulated condition.
2. Even if the condition exists, the County may fail to prove Respondent caused or was legally responsible for it.
3. Even if Respondent was responsible, the County may fail to prove that the activity was prohibited rather than agriculturally protected.
4. Even if a violation occurred, the County may fail to prove the remedy, penalty, or continuing consequence sought.

PART VII — LIMITS OF THE HEARING OFFICER'S TECHNICAL ROLE

1. Specialized Nature of the Issues

The proceeding involves specialized wetland delineation science, hydrophytic vegetation analysis, hydric-soil indicators, wetland hydrology, GIS mapping, federal water-management operations, agricultural practices, property rights, and overlapping local, state, and federal authority.

2. No Independent Scientific Assumptions

Respondent objects to any technical or scientific finding based on unsupported agency conclusions, administrative assumption, informal familiarity, or the Hearing Officer's independent understanding rather than competent testimony and authenticated scientific evidence in the record.

3. No Filling of Evidentiary Gaps

The Hearing Officer should not independently supply missing methodology, fill evidentiary gaps, take informal notice of disputed scientific conclusions, or substitute general administrative experience for qualified expert evidence.

4. Property-Rights Consequences

Because the proceeding may affect the use, value, agricultural operation, permit status, penalties, marketability, and constitutional protection of private property, any ruling should identify the precise violation proven, the authority relied upon, the findings supporting each element, and the exact corrective action authorized.

PART VIII — QUALIFICATION OF COUNTY TECHNICAL WITNESSES

Before any County witness offers wetland-science, hydrology, soil, vegetation, GIS, engineering, or other technical opinions, Respondent requests that the County establish the witness's qualifications on the record.

1. Education and formal training.
2. Professional licenses, certifications, and specialized credentials.
3. Experience applying Rule 62-340 or the specific methodology relied upon.
4. Experience identifying hydrophytic vegetation.
5. Experience identifying and documenting hydric soils.
6. Experience evaluating wetland hydrology.
7. Experience with GIS, mapping, GPS, or boundary delineation, if those subjects are addressed.
8. Fieldwork personally performed at this property.
9. Dates, weather conditions, instruments, and methods used during each inspection.
10. Whether the witness personally collected the data or is relying on another person's work.
11. The identity and qualifications of every person whose work supports the opinion.

Respondent objects to technical opinion testimony from any witness who has not been qualified on the record concerning the particular scientific subject addressed.

PART IX — RULE 62-340 AND WETLAND METHODOLOGY OBJECTIONS

1. Required Methodology Record

Respondent objects that no completed Rule 62-340 three-parameter field forms (hydrophytic vegetation, hydric soils, and wetland hydrology) or equivalent documented methodology record has been produced for identified sample points.

2. Vegetation Data

No species list, wetland-indicator status (such as FAC, FACW, or OBL designations from the current wetland plant list), dominance calculation, or sample-point vegetation documentation has been produced.

3. Soils Data

No Munsell color notation at documented depths, hydric-soil indicator documentation referenced to the Hydric Soils of Florida publication, or sample-point soil record has been produced.

4. Hydrology Data

No contemporaneous water-table measurement, primary or secondary hydrologic-indicator record, antecedent-moisture analysis, or normal-condition analysis has been produced.

5. Location and Boundary Data

No GPS coordinates, boundary maps, survey-quality location information, or delineation-transect data have been produced for the alleged wetland boundary.

6. Delineator Qualifications

No qualifications, credentials, or training records have been produced for the person who conducted or reviewed the alleged delineation.

7. Formal Jurisdictional Determination

No formal FDEP or SFWMD jurisdictional determination or related interagency correspondence has been produced.

8. Narrative Statement Is Not the Underlying Record

A narrative statement that wetlands were observed or hydric conditions exist does not substitute for the underlying field data and methodology documentation needed to evaluate the reliability and legal sufficiency of the determination. The completed three-parameter data form is the determination; a statement in an inspection report that wetlands were observed is not, by itself, a Rule 62-340 wetland determination. Absent the completed data forms, Respondent objects that there is no legally sufficient evidentiary basis for any enforcement action premised on a wetland or surface-water theory.

PART X — EVIDENCE, AUTHENTICATION, FOUNDATION, AND RELIABILITY

1. Same-Day or Late-Produced Evidence

Respondent objects to evidence first produced at or immediately before the hearing because it deprives Respondent of adequate time for review, investigation, expert consultation, rebuttal, and meaningful cross-examination.

2. Photographs

Photographs should be authenticated by a witness with personal knowledge, including the date, time, location, equipment, and whether the image accurately depicts the alleged condition. Available EXIF metadata should be produced.

3. Maps and GIS Layers

Maps and GIS layers should be authenticated as to source, date, scale, accuracy, coordinate system, data lineage, and methodology used to apply any regulatory boundary to the property.

4. Inspection Reports

Inspection reports should be authenticated by the inspector with personal knowledge and produced in their original form, including available drafts, revision history, and digital metadata showing when each version was created and by whom. Any version produced at the hearing that differs materially from a prior version is itself evidence of post-hoc reconstruction and is objected to on that basis.

5. Foundation

Respondent objects to any exhibit lacking personal knowledge, authentication, relevance, reliability, or competent evidentiary support.

6. Hearsay and Corroboration

Respondent objects to reliance on unauthenticated out-of-court statements, agency communications, or interagency referrals offered for their truth without sufficient corroboration or indicia of reliability. Even if admitted under informal administrative procedures, such material should not, standing alone, support the charged violation.

7. Time to Inspect, Cross-Examine, and Rebut

Respondent requests adequate time to inspect each exhibit before admission, cross-examine each witness, obtain expert consultation when new technical evidence is introduced, and present rebuttal evidence.

PART XI — AGRICULTURAL STATUTORY DEFENSES AND CLASSIFICATION EVIDENCE

Respondent does not contend that agricultural classification alone conclusively establishes an environmental permitting exemption. The classification is offered as evidence of recognized agricultural use and as relevant to whether the alleged activity constituted a normal or customary agricultural practice.

1. Florida Statute § 373.406(2)

Respondent preserves the contention that qualifying normal and customary agricultural or silvicultural practices may fall within the statute's terms and limitations.

2. Rule 62-340.450, F.A.C.

Respondent preserves the contention that Rule 62-340.450, F.A.C., provides a parallel exemption for qualifying farming activities from the wetland-delineation program. Respondent requests that the County identify whether the agricultural exemption was considered and, if so, the specific evidence and analysis on which the County relies to conclude that it does not apply.

3. Florida Statute § 373.407

Respondent preserves the right to seek or rely upon a binding determination from the Florida Department of Agriculture and Consumer Services concerning whether an existing or proposed activity qualifies under § 373.406(2).

4. Florida Statute § 193.461 Agricultural Classification

Respondent offers the property's agricultural classification as relevant evidence of recognized agricultural use while preserving the separate legal question of exemption eligibility.

5. County's Burden to Address the Defense

Respondent requests that the County identify the specific evidence and legal analysis it relies upon to contend that the alleged activity falls outside any applicable agricultural protection.

PART XII — PROPERTY RIGHTS, REMEDY, AND ECONOMIC CONSEQUENCES

1. Private-Property Consequences

The Notice of Violation and any resulting order may affect the property's use, agricultural operation, value, financing, marketability, permit status, and exposure to fines, liens, restoration demands, or continuing restrictions.

2. Exact Remedy and Authority

Respondent requests that the County identify the exact remedy sought and the precise legal authority authorizing that remedy.

3. Proportionality and Nexus

Respondent preserves any objection that a demanded remedy lacks a demonstrated factual nexus to the alleged violation, is disproportionate to the condition proven, or exceeds the authority of the administrative forum.

4. Judicial Property-Rights Claims

Any takings, inverse-condemnation, or monetary claims — including claims under the Fifth and Fourteenth Amendments, the Tucker Act (28 U.S.C. § 1491) in the United States Court of Federal Claims, Florida inverse condemnation under Article X, Section 6 of the Florida Constitution, and the Bert J. Harris, Jr., Private Property Rights Protection Act (§ 70.001, Fla. Stat.) — together with any declaratory or injunctive claims, are preserved for a court of competent jurisdiction and are not submitted for final adjudication by the Hearing Officer.

PART XIII — FEDERAL 8.5 SQUARE MILE AREA FRAMEWORK AND PRIOR LITIGATION

1. Las Palmas / Eight and One-Half Square Mile Area

The property is located within or adjacent to the Las Palmas Community, formerly known as the Eight and One-Half Square Mile Area. Respondent preserves the relevance of Public Law 101-229 and 16 U.S.C. § 410r-8 to the federal project framework affecting the Area.

2. Garcia Federal Litigation

Respondent cites the filed complaint in *Garcia v. United States of America*, Case No. 1:01-cv-00801-KMM, as part of the historical and statutory record concerning governmental authority and private-property protection in the Area.

3. Federal Water-Management Operations

Respondent preserves the contention that hydrological conditions characterized by the County as jurisdictional wetlands may be influenced, in whole or in part, by federal water-management operations conducted by the U.S. Army Corps of Engineers in connection with the Modified Water Deliveries to Everglades National Park project, including operations associated with Alternative 6D of that project. Respondent preserves the contention that a government agency should not create or maintain hydrological conditions through federally authorized water-management operations and then rely on those same conditions as the factual basis for an enforcement action against a property owner whose use was contemplated and protected by Act of Congress.

4. Relevance to Claimed County Authority

Respondent requests that the County identify the exact state, local, and delegated authority supporting this enforcement action and explain how that authority fits within the federal statutory and project framework applicable to the Area.

5. Preserved Federal Issues

Respondent preserves any preemption, Supremacy Clause, federal-project, and constitutional property-rights issues for judicial review.

Source offered for the record: Complaint, Garcia v. United States of America, Case No. 1:01-cv-00801-KMM, Document 1, United States District Court for the Southern District of Florida, Miami Division.

PART XIV — FORMAL MOTIONS

Respondent requests a ruling on each motion, stated on the record, with the specific reason for any denial.

MOTION 1 — CONTINUANCE

REQUESTED RULING

Continue the hearing for sufficient time to permit complete production and review of the County's evidence file, methodology records, authority records, public records, and technical materials, and to permit expert consultation and preparation of rebuttal.

MOTION 2 — STAY OR TOLLING OF ADMINISTRATIVE DEADLINES

REQUESTED RULING

Stay or toll compliance deadlines, correction deadlines, penalty accrual, continuing fines, lien recording, permit consequences, restoration demands, and classification consequences to the extent authorized pending final resolution and judicial review.

MOTION 3 — EXCLUSION, LIMITATION, OR CONTINUANCE FOR UNDISCLOSED EVIDENCE

REQUESTED RULING

Exclude, limit, reduce the weight of, or continue the hearing to permit meaningful review and rebuttal of evidence not produced with sufficient advance notice.

MOTION 4 — IDENTIFICATION OF AUTHORITY ON THE RECORD

REQUESTED RULING

Require the County to identify before presenting substantive evidence the exact code subsection, state-law authority, delegation instrument, governing hearing procedure, corrective remedy, and penalty relied upon.

MOTION 5 — PRODUCTION OF THE COMPLETE METHODOLOGY RECORD

REQUESTED RULING

Require production of all field forms, field notes, photographs and available metadata, GPS coordinates, species lists, dominance calculations, soils records, hydrology records, boundary maps, and delineator qualifications before wetland, surface-water, or hydrology testimony is presented or relied upon.

MOTION 6 — QUALIFICATION OF TECHNICAL WITNESSES

REQUESTED RULING

Require the County to establish each witness's education, training, credentials, personal fieldwork, methodology, and subject-specific expertise before permitting technical opinion testimony.

MOTION 7 — NO INDEPENDENT TECHNICAL ASSUMPTIONS

REQUESTED RULING

Preclude reliance on unsupported agency conclusions, informal administrative assumptions, or independent technical determinations not grounded in qualified testimony and authenticated evidence in the record.

MOTION 8 — DISMISSAL OR FINDING OF NO VIOLATION

REQUESTED RULING

Dismiss the citation or enter a finding of no violation if the County fails to establish every required element of the charged violation through competent evidence under the applicable burden of proof.

MOTION 9 — ELEMENT-BY-ELEMENT FINDINGS AND STATED REASONS

REQUESTED RULING

Require any ruling to identify the exact code provision, factual findings, scientific basis, burden of proof, remedy and authority, and the stated reason for denying each material objection or motion.

PART XV — GROUNDS PRESERVED FOR JUDICIAL REVIEW

1. Departure from the Essential Requirements of Law

Respondent preserves the contention that the enforcement action lacks required authority, applies an erroneous legal standard, fails to account for applicable statutory protections, or rests on a legally insufficient methodology.

2. Lack of Competent Substantial Evidence

Respondent preserves the contention that the County fails to produce a legally sufficient evidentiary record supporting the charged wetland, surface-water, fill, hydrology, or environmentally sensitive area violation.

3. Denial of Procedural Due Process

Respondent preserves the contention that inadequate notice, asymmetric disclosure, incomplete records, unqualified opinion testimony, limits on cross-examination or rebuttal, or refusal to rule on material objections denies a meaningful opportunity to be heard.

4. Property-Rights and Federal Issues

Respondent preserves all available state and federal constitutional, statutory, preemption, takings, inverse-condemnation, and property-rights issues for the proper judicial forum, including the Circuit Court for Miami-Dade County (Eleventh Judicial Circuit), the United States District Court for the Southern District of Florida, and the United States Court of Federal Claims under the Tucker Act (28 U.S.C. § 1491).

PART XVI — FINAL CONTINUING PRESERVATION STATEMENT

Respondent does not consent to a truncated record, unsupported scientific findings, informal substitution of administrative assumptions for proof, or waiver of any right by the decision to proceed over Respondent's objections.

Respondent reserves the right to object during testimony, cross-examine witnesses, inspect exhibits, consult experts, present rebuttal evidence, proffer excluded evidence, and supplement these objections as permitted.

Respondent reserves the right to seek judicial review of any adverse final administrative order in the proper court.

Respondent reserves all available state and federal remedies in a court of competent jurisdiction.

This statement is tendered in written form for admission into the official administrative record and is additionally made on the audio record under protest.

SUPPLEMENT TO RESPONDENT'S EXHIBIT 1 ADDITIONAL DUE-PROCESS, COMMUNICATION, DISCLOSURE, AND HEARING- OFFICER OBJECTIONS

This supplement is incorporated into Respondent's Exhibit 1 and is tendered before substantive testimony or evidence is presented. It preserves additional objections established by the Notice of Administrative Hearing and Respondent's pre-hearing experience.

A. NO FUNCTIONING PRE-HEARING COMMUNICATION CHANNEL

1. Unanswered County Telephone Number. The Notice supplied a County telephone number, but calls to that number were not answered. Respondent was not provided with a functioning contact person who could answer questions concerning the charge, the governing procedure, the County evidence, or hearing preparation.

2. No Effective Alternative Contact Method. The Notice did not provide an identified email address or other effective method for communicating with the responsible County representative about the wetland Notice of Violation. Respondent therefore could not obtain clarification, identify the exact theory of

enforcement, request the evidence file, identify anticipated witnesses, or attempt to resolve procedural issues before the hearing.

3. Resulting Prejudice. The absence of a functioning communication channel compounded the County's failure to provide its evidence in advance and materially impaired Respondent's ability to investigate, consult an expert, prepare objections, and organize a meaningful defense.

B. UNEQUAL DISCLOSURE AND DAY-OF-HEARING EVIDENCE

1. Respondent's Advance Deadline. Respondent was required to provide evidence, positions, or materials approximately two weeks before the hearing.

2. County Evidence Withheld Until the Hearing. The County did not provide equivalent advance disclosure and instead presented or sought to present evidence on the hearing date. Respondent had no comparable opportunity to inspect, investigate, verify, obtain expert assistance concerning, or prepare rebuttal to that evidence.

3. Due-Process Objection. Requiring advance production from Respondent while permitting the County to withhold its evidence until the hearing created a materially unequal procedure. Respondent objects to admission or reliance on such evidence unless the hearing is continued for sufficient review and rebuttal.

C. NO ADVANCE IDENTIFICATION OF THE HEARING OFFICER

1. Notice Defect. The Notice of Administrative Hearing identifies the hearing date, time, place, citation number, department, inspector, and alleged code provisions, but it does not identify the Hearing Officer who will preside.

2. Inability to Evaluate Qualifications or Conflicts. Because the Hearing Officer was not identified in advance, Respondent had no meaningful opportunity before the hearing to investigate the officer's appointment authority, professional qualifications, prior involvement, potential conflicts, or experience with wetland science, hydrology, soils, vegetation, GIS, environmental regulation, agricultural law, administrative procedure, and constitutional property rights.

3. No Independent Technical Determinations. Respondent objects to any technical or scientific finding based on the Hearing Officer's personal understanding, administrative familiarity, or unsupported assumptions rather than qualified testimony and authenticated evidence placed into the record.

4. Opportunity to Raise Disqualification Issues. Respondent requests disclosure of the Hearing Officer's identity and appointment authority before substantive evidence is heard, together with a meaningful opportunity to raise any legally supported conflict, recusal, or disqualification issue.

MOTION 10 — EXCLUSION OR CONTINUANCE BASED ON UNEQUAL DISCLOSURE AND LACK OF COMMUNICATION

Respondent moves to exclude evidence first disclosed by the County on the hearing date or, alternatively, to continue the hearing for sufficient time to obtain, inspect, investigate, obtain expert assistance concerning, and rebut that evidence. Respondent further requests a finding on the record concerning the lack of a functioning pre-hearing communication method despite the requirement that Respondent submit materials approximately two weeks in advance.

REQUESTED RULING

Exclude evidence first disclosed on the hearing date or continue the hearing for sufficient review, investigation, expert consultation, cross-examination preparation, and rebuttal.

MOTION 11 — DISCLOSURE OF HEARING OFFICER IDENTITY, APPOINTMENT AUTHORITY, AND POTENTIAL CONFLICTS

Respondent moves for disclosure on the record of the Hearing Officer's full name, appointment authority, prior involvement in this matter, and any potential conflict or legally cognizable basis for disqualification before substantive evidence is heard. Respondent also requests clarification that disputed wetland-science and property-rights issues will be decided solely from qualified testimony, authenticated evidence, and governing law in the record.

REQUESTED RULING

Disclose the Hearing Officer's identity, appointment authority, prior involvement, and potential conflicts before substantive evidence is heard, and allow Respondent a meaningful opportunity to raise any supported objection or request for recusal or disqualification.

CONTINUING PRESERVATION

These objections and motions supplement, and do not replace or narrow, any objection, motion, defense, reservation, or request contained elsewhere in Respondent's Exhibit 1. Respondent reserves the right to object further based on the identity and qualifications of the Hearing Officer, the evidence first produced, the testimony offered, and the rulings made during the hearing.

Source reviewed: Notice of Administrative Hearing for the citation referenced above. The notice identifies the hearing date, time, location, DERM division, inspector, and alleged code provisions, but does not name the Hearing Officer.

PART XVII — DUE-PROCESS RECORD-PRESERVATION PROTOCOL FOR JUDICIAL REVIEW

Purpose of Record Preservation

This Exhibit is tendered before County testimony begins to provide written notice of each threshold objection, request a contemporaneous ruling and an effective cure, demonstrate the resulting prejudice if the hearing proceeds without that cure, and create a complete administrative record for judicial review of any adverse final order.

Procedure Requested for Every Due-Process Objection

1. Acknowledge the objection and identify the corresponding section of Exhibit 1 on the audio record.
2. Permit Respondent to state the specific prejudice caused by the challenged procedure or evidence.
3. Rule expressly by granting, denying, or deferring the requested relief.
4. State the factual and legal reason for the ruling on the record.
5. Confirm that Exhibit 1, supporting documents, and any proffer are included in the official administrative record.
6. Provide a meaningful cure before relying on evidence that Respondent had no fair opportunity to inspect, investigate, or rebut.

Concrete and Non-Speculative Prejudice

Respondent was required to submit evidence approximately two weeks before the hearing, while the County did not provide reciprocal advance disclosure, presented or sought to present evidence on the hearing date, and supplied no functioning pre-hearing communication channel through which Respondent could obtain clarification or evidence. The telephone number provided was called but was not answered, no identified County representative responded, and no effective alternative method of communication was available.

As a direct result, Respondent could not inspect or authenticate the County's evidence; investigate the County's scientific and legal theories; examine original photographs, metadata, GIS data, soils, vegetation, hydrology, or boundary information; consult a qualified wetland professional; prepare meaningful cross-examination; locate rebuttal witnesses; evaluate the unidentified Hearing Officer's appointment authority, potential conflicts, or relevant qualifications; or prepare an informed response to the precise basis of the charge.

Respondent therefore requests a continuance, exclusion or limitation of undisclosed evidence, disclosure of the Hearing Officer's identity and authority, production of the complete methodology and enforcement record, qualification of technical witnesses, adequate time for expert consultation and rebuttal, and an express ruling with stated reasons on every material objection and motion.

No Waiver by Filing Alone

Filing this Exhibit does not waive the right to restate any objection orally, object when evidence is offered, request a cure, cross-examine witnesses, proffer excluded evidence, or supplement the record. Respondent requests that the Hearing Officer treat each objection and motion as pending unless expressly withdrawn or ruled upon on the record.

PART XVIII — ADDITIONAL LEGAL, EVIDENTIARY, AND FORUM OBJECTIONS

1. Identification of the Exact Administrative Forum

Before presenting evidence, the County must identify the exact statutory, ordinance, code, and procedural authority governing this proceeding, including whether the hearing is conducted under Chapter 8CC, Chapter 24, an appeal from a Director determination, an Environmental Quality Control Board procedure, or another specifically identified authority. Respondent objects to proceeding without notice of the governing procedure, burden of proof, scope of review, available remedies, and method of judicial review.

2. Original Inspection Records, Drafts, and Revision History

Any inspection report relied upon by the County should be produced in its original form together with available drafts, amendments, attachments, revision history, creation dates, modification dates, authorship information, and digital metadata. If a version presented at the hearing differs materially from an earlier version, Respondent requests disclosure of every material change, the person who made it, the date of the change, and the stated reason.

3. Conclusory Wetland Testimony Does Not Replace Underlying Data

A statement that wetlands were observed, hydric conditions exist, or the property contains regulated wetlands does not permit meaningful review unless the County produces the observations, sample locations, field notes, photographs, vegetation data, soil data, hydrology indicators, maps, and methodology on which the conclusion rests. Respondent objects to a finding based solely on a conclusory inspection narrative where the underlying scientific record is absent.

4. Additional Record Categories Supporting Continuance

To the extent applicable, Respondent requests sufficient time to obtain and review County enforcement records, wetland methodology materials, state delegation or operating agreements, agricultural-practice records, federal water-management records, interagency communications, public-record responses, witness qualifications, and other materials necessary for expert review and rebuttal. Identification of an agency does not represent that every agency necessarily possesses responsive records.

5. No Submission of Judicial Claims for Final Administrative Adjudication

Respondent identifies federal and constitutional issues solely to preserve them, explain the property-rights context, and require the County to identify its authority. Respondent does not consent to final adjudication

by the Hearing Officer of any claim for compensation, inverse condemnation, federal preemption, declaratory relief, injunctive relief, or monetary damages that lies within the jurisdiction of a court.

6. Federal Water-Management Conditions Preserved as a Contention

Respondent preserves the contention that federal water-management operations may have created, increased, maintained, or materially influenced hydrological conditions relied upon by the County. Respondent requests that the County distinguish natural site conditions from government-created or government-maintained conditions through competent evidence, maps, operational records, and qualified testimony.

PART XIX — ADMISSION, REJECTION, AND PROFFER TRACKING

Respondent tenders this complete document before County testimony begins and requests that it be marked and admitted as Respondent's Exhibit 1. The following section is provided to document how the written objections were handled for purposes of the official record and any later judicial review.

Disposition of Exhibit 1

- ☐ Accepted and marked as Respondent's Exhibit 1
- ☐ Accepted into the record without an exhibit number
- ☐ County objected to admission
- ☐ Hearing Officer declined admission
- ☐ Hearing Officer deferred ruling on admission
- ☐ Respondent proffered the document after admission was declined
- ☐ Other: _____

Reason Stated on the Record

Audio or Transcript Reference

Audio time: _____ Transcript page and line: _____

Respondent Verification and Submission

Respondent Name (print): _____

Signature: _____

Date: _____

Case No.: _____

Citation No.: _____

Property Address: _____

Folio No.: _____

Hearing Date: _____

I certify that a copy of this document was tendered to the Hearing Officer and provided to the County representative for marking and inclusion in the official administrative record. If admission was denied or

deferred, Respondent requests that the document be treated as a proffer and retained with the record of the proceeding.

CERTIFICATE OF SUBMISSION

I certify that a true copy of this document was tendered to the Hearing Officer and provided to the County representative for inclusion in the official administrative record on the date shown below.

Date: _____

Respondent: _____

Method of delivery: ☐ Hand delivery ☐ Email ☐ Electronic portal ☐ Other: _____

Submitted under protest. No objection, defense, claim, or right is waived.

Document preparation resource: MiamiDade.watch — www.MiamiDade.watch. This document provides general educational and organizational information and is not legal advice, does not create an attorney-client relationship, and is not an official publication of Miami-Dade County or any court or governmental agency. The submitting party is responsible for reviewing, adopting, completing, and verifying the contents before submission.