

DERM Class IV Permit Defense & Offensive Counterattack

Strategy Step-by-step legal and investigative guide to empower landowners

Prepared For: Agricultural Landowners & Neighbors of the Las Palmas Community

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Date: 7/13/2025

Quick Action Checklist

- **Reserve Your Rights** in every communication and document.
- **Consult an Environmental/Land Use Attorney** before engaging with DERM.
- **Gather Evidence:** Hydrology data, aerial images, and public records.
- **Investigate DERM Practices** for waste, fraud, or abuse.
- **File Complaints and Claims:** Administrative hearing, Bert Harris Act, federal review.
- **Organize Neighbors:** Form coalitions, share resources, and amplify voices.
- **Launch Public Awareness Campaigns** to gain oversight and legislative support.

I. Introduction: The Class IV Permit Trap

The Miami-Dade County Division of Environmental Resources Management (DERM) has increasingly used **Class IV permits** as a regulatory weapon to enforce jurisdiction over farmland and restrict otherwise lawful agricultural activity. Landowners, often unaware of their rights or pressured by threats of enforcement, are coerced into signing these permits under duress. This report outlines a complete legal and strategic response for any neighbor or landowner who has signed a Class IV permit and now wishes to fight back.

DERM's tactics violate multiple state and federal protections, including the **Agricultural Lands and Practices Act (§163.3162, F.S.)**, the **Florida Right to Farm Act (§823.14, F.S.)**, and potentially the **U.S. Constitution** under 42 U.S.C. §1983. This report explains how to challenge those violations and seek legal, financial, and public accountability.

Warning: All emails and communications transmitted to DERM can and will be used against you.

Learn your rights and consult an attorney specializing in environmental or land use law before engaging with this bureaucratic machine. Every word and document you send may become evidence in their effort to seize your property. Proceed cautiously and only after fully understanding your legal position.

Important: When communicating or signing any documents—including with DERM, courts, or other agencies—**always include a reservation of rights** to avoid waiving legal defenses.

Sample Reservation of Rights Statement (to use in emails, forms, and even oral statements):

“Signed under protest and without waiver of any legal rights, defenses, or jurisdictional objections.”

This preserves your ability to later challenge jurisdiction, regulatory overreach, and improper enforcement.

Why Reserve Your Rights?

Action	With Reservation of Rights	Without Reservation of Rights
Administrative Challenges	Preserve up to 1-year window (Ch. 120, F.S.)	May be barred or limited to 30 days
Bert J. Harris Act	4 years to file (§70.001, F.S.)	Risk waiver of damages claim
Federal §1983 Claims	2-4 years depending on violation type	May lose standing for constitutional challenge
Inverse Condemnation	4 years (state) / 6 years (federal takings claims)	May be argued as consent to regulation

II. The Most Important Strategy: Go On the Offensive and Get Paid to Fight Back

For victims unable to afford expensive legal battles, there is another path: **learn to use public records laws offensively** and uncover corruption, waste, and fraud within DERM and Miami-Dade County.

Under **state and federal whistleblower laws**, citizens who expose fraud against taxpayers may be entitled to **substantial financial rewards**—often 15% to 30% of recovered funds. Successful claims under the **False Claims Act (31 U.S.C. §§3729–3733)** or Florida’s **Whistleblower Act (§112.3187, F.S.) are protected from being fired or demoted, but they don’t get a percentage of recovered funds.**

Hypothetical Scenarios: In a 2022 Florida case, a whistleblower exposed fraudulent billing practices in a state construction project. The government recovered \$12 million, and the whistleblower was awarded \$2 million (around 17%) for their role in uncovering the misconduct.

In another agriculture-related case, a farm worker in Florida helped expose misappropriation of federal conservation funds, leading to a \$5 million recovery and a \$750,000 reward to the whistleblower. Examples based on trends from DOJ False Claims Act settlements and public reports of whistleblower awards.

By actively investigating:

- You can hold officials accountable.
- You can document unethical conduct and illegal practices.
- You can potentially turn DERM’s abuses into a source of **financial empowerment**.

Steps to Get Started:

1. Learn Florida’s **Chapter 119, F.S. (Public Records Law)** and how to access records in person.
2. Request budgets, contracts, emails, and enforcement logs.

3. Document patterns of misconduct, such as selective enforcement, misuse of funds, or suppression of evidence.
4. Submit findings to:
 - **U.S. Department of Justice – Civil Rights Division and Related Divisions**
 - The **DOJ** provides multiple avenues for citizens to challenge government abuse, including the **Civil Rights Division**, which investigates violations of constitutional rights such as unlawful property takings, selective enforcement, and regulatory overreach under 42 U.S.C. §1983, and the Public Integrity Section, which prosecutes corruption and misuse of public office. Citizens can also file claims under the **Federal Tort Claims Act (FTCA)** for damages caused by federal agencies, or pursue compensation through **inverse condemnation actions for regulatory takings that violate the Fifth Amendment**. The U.S. Environmental Protection Agency (EPA) accepts complaints under Title VI of the Civil Rights Act for discriminatory environmental enforcement, although federal agencies are no longer mandated by Executive Order 12898 to address environmental justice as of January 2025., while the **FBI** Public Corruption Unit investigates bribery, kickbacks, and abuse of authority by local officials. Additionally, whistleblower protections and rewards are available under the **False Claims Act** (31 U.S.C. §§3729–3733) for exposing fraud involving federal funds, with submissions leading to DOJ investigations and potential monetary awards. Together, these federal programs empower citizens and landowners to hold local and state agencies accountable for unlawful conduct.
 - **U.S. Environmental Protection Agency (EPA) – Region 4**
 - Oversees Clean Water Act (CWA) compliance and state delegation agreements.
 - Can investigate misuse of environmental authority and failure of state/local agencies to comply with federal environmental law.
 - **U.S. Army Corps of Engineers – Regulatory Program (Jacksonville District)**
 - Reviews wetlands determinations, jurisdictional disputes, and local agency overreach.
 - Can override county determinations that conflict with federal wetlands standards.
 - **U.S. Department of Justice for False Claims Act rewards.**
 - Hire a qualified Qui Tam Attorney with federal experience. Many work on a contingency fee-no upfront cost. Your attorney will help assemble the documents, evidence showing the federal government paid or funded the program being abused (critical for FCA).
 - **State and federal whistleblower programs.**

- Retaliation protection for public employees and contractors: Violation of laws/rules. Gross mismanagement or abuse of authority. Substantial danger to public health or safety. NO MONETARY AWARD; protects job and reinstatement rights.

Agencies to Avoid

- ✖ **Miami-Dade Office of the Inspector General (OIG):** Known to refer complaints back to DERM or RER.
- ✖ **Florida Commission on Ethics:** Limited jurisdiction; does not act on systemic regulatory abuse or land use conflicts.
- ✖ **Miami-Dade State Attorney's Office:** Historically unwilling to prosecute corruption in county departments, AVOID any other agencies within Miami-Dade County.

5. Work with experienced **qui tam** attorneys to file a **whistleblower lawsuit** if fraud on federal programs is uncovered.

Why This Matters: This approach requires no upfront legal costs and rewards your time and effort. While legal challenges defend your own property, offensive investigations can **generate income to fund your fight** and bring systemic reform.

III. Responding to Every Violation with Affirmative Defenses (Be mindful of deadlines to avoid default judgments)

DERM will be relentless. Their staff are trained to take your land, using technical violations as leverage. You must answer each accusation with affirmative defenses grounded in verified evidence.

Steps for Building a Defense:

1. **Verify DERM's Claims:** Review every allegation for factual errors, false assumptions, or procedural defects.
2. **Cross-Reference Evidence:** Match DERM's enforcement reports to public records, aerial imagery, hydrology data, and scientific studies.
3. **Research the Law:** Learn applicable Florida Statutes, Administrative Code rules, and federal regulations (e.g., Rule 62-340, F.A.C.; §823.14 F.S.; Clean Water Act).
4. **Respond Appropriately:** Draft rebuttals that cite statutes, scientific evidence, and procedural defects. Always reserve rights by stating responses are made under protest.
5. **Include Affirmative Defenses:**

- Lack of jurisdiction under state preemption laws (e.g., §163.3162, F.S.).
- Agricultural exemption under the Florida Right to Farm Act.
- Procedural due process violations (no proper notice, right to hearing).
- Unlawful taking without just compensation.

6. Document and Preserve Evidence: Keep meticulous records of all communications, inspections, and data.

7. Escalate When Needed: If DERM persists, pursue administrative hearings, federal reviews, and public exposure.

You must **study the information provided here and beyond this site**, becoming self-reliant in understanding your rights and defenses.

IV. Administrative and Judicial Remedies (Approximate Timeframes & Costs Added)

1. File for Administrative Hearing (§120.57, F.S.)

Estimated Timeframe: 3-6 months

Estimated Cost: \$10,000–\$30,000

If the permit was obtained unlawfully or under duress, file a petition for hearing within the deadline.

Demand withdrawal of the permit based on:

- Lack of jurisdiction
- Improper classification of wetlands (no Rule 62-340 delineation)
- Coercion in permitting process

2. File Bert J. Harris Act Claim (§70.001, F.S.)

Estimated Timeframe: 6-12 months (including 150-day notice period)

Estimated Cost: \$25,000–\$75,000

Preserve your rights for compensation. Do not waive jurisdictional objections. File the claim “under protest and without waiver” of state law protections.

3. Request Federal Review

Estimated Timeframe: 4-8 months

Estimated Cost: Minimal unless legal representation retained (\$5,000–\$15,000)

Prepare a complaint to:

- U.S. EPA (Region 4)
- USDA NRCS (State Conservationist)
- U.S. Army Corps of Engineers (regarding federal wetlands)
- U.S. Department of Justice Civil Rights Division (for §1983 violation)

4. For Properties Without Agricultural Exemption (Las Palmas Community)

- **Consider Rezoning or Variance Applications:** *Timeframe: 6-18 months*
Cost: \$15,000–\$50,000
- **Challenge Wetland Designation Scientifically:** *Timeframe: 3-6 months*
Cost: \$10,000–\$40,000
- **Pursue Inverse Condemnation Claims:** *Timeframe: 1-3 years*
Cost: \$50,000–\$250,000
- **Engage Federal Agencies:** USDA NRCS and EPA oversight may help counter local overreach.
- **Form Community Legal Coalition:** Costs vary; pooling resources can reduce individual expenses.
- **Public Advocacy and Media Exposure:** *Timeframe: Immediate–12 months*
Cost: \$5,000–\$20,000
Strengthen political pressure to force oversight and legislative remedies.

V. Records & Transparency Offensive

5. Demand Public Records to Build Your Case

Request all emails, permits, GIS overlays, internal memoranda, enforcement notes, and wetland maps related to:

- Your property
- Surrounding properties with Chekika or similar soils
- All Class IV permits issued in the Las Palmas Community

6. Request 2024 End-of-Year DAT Backup from DERM

To uncover suppressed records or tampering, request the full DAT tape backup (not selective files) and demand full export to modern format.

7. Investigate Broader County Operations

Use your access rights under Chapter 119, F.S. to:

- Access financial records, budgets, and contracts.
- Examine internal emails for misconduct.
- Demand records of other properties treated differently than yours.

If fraud, waste, or abuse is uncovered, take it beyond DERM:

- Report to state and federal agencies.
- File whistleblower claims and **earn a percentage of recovered taxpayer funds.**

VI. Scientific and Regulatory Rebuttal

8. Commission a Third-Party Wetland Delineation

Use Rule 62-340, F.A.C. and avoid local consultants tied to DERM. Submit the independent delineation to:

- DERM (for rebuttal)
- SFWMD and USDA NRCS (for jurisdictional override)

9. Challenge Jurisdiction Directly

Send formal legal correspondence to:

- FDEP: Request confirmation that DERM is not delegated ERP authority under Rule 62-344, F.A.C.
- SFWMD: Demand review and potential override of DERM's actions.
- County Attorney: Notify that DERM's enforcement lacks state delegation.

VII. Exposure and Political Pressure

10. File Complaints with Oversight Bodies

- Miami-Dade Office of the Inspector General
- Florida Commission on Ethics
- Office of the State Attorney
- County Commission and EQCB

11. Launch a Public Awareness Campaign

- Publish your case at www.MiamiDade.watch
- Share your story with neighbors and local media
- Show proof of record suppression, jurisdictional fraud, and abuse of permitting

VIII. Sample Records Request Language

Pursuant to Article I, Section 24 of the Florida Constitution and Chapter 119, Florida Statutes, I respectfully request all records, correspondence, emails, memoranda, GIS maps, internal notes, assessments, enforcement photographs, inspection logs, and permitting files related to the Class IV permit issued for [insert property address or folio number] and any neighboring properties containing USDA-classified Chekika soils.

IX. Conclusion: Standing Up and Fighting Back (and Organizing Together)

You are not alone—and now is the time to unite with neighbors, share resources, and build collective strength. Miami-Dade County’s DERM has overstepped its legal bounds by using Class IV permits as a blunt instrument to gain control of agricultural land. Whether you signed the permit under pressure or regrettably believed it was your only option, you can now strike back.

Through legal action, transparency efforts, affirmative defenses, public record investigations, and accountability measures, you can expose corruption, recover damages, and even earn financial rewards through whistleblower programs.

Why MDC’s Agencies Can’t Be Trusted

Miami-Dade County’s government has created a “**quasi-standard**” of accountability, where departments routinely blame one another to avoid responsibility. Public records requests are often **blocked, delayed, or answered with misinformation**. If one agency is questioned, they refer citizens to another, creating a **bureaucratic loop** where no one is accountable. This tactic protects corruption by keeping misconduct hidden and exhausting citizens into giving up. It’s not an accident—it’s a deliberate culture of **institutional deflection and plausible deniability**.

This is why whistleblowers and citizens cannot rely on OIG, Miami State Attorney, Police, or any internal MDC offices to investigate corruption. Instead, federal reporting channels and independent legal action are critical for meaningful oversight.

Abbreviation and Latin Phrase Glossary

MDC

Meaning: Miami-Dade County – Local government entity administering Miami-Dade, Florida.

Function: Oversees all county departments including environmental regulation.

DERM

Meaning: Department of Environmental Resource Management – A Miami-Dade County agency overseeing environmental concerns, wetlands, and regulatory enforcement.

Function: Regulates environmental resources and enforces permitting requirements.

F.S.

Meaning: Florida Statutes – Codified laws of the State of Florida.

Function: Provides legal framework for state laws and regulations cited in this report.

§

Meaning: Section – Symbol used to refer to specific statutory or code sections.

Function: Directs readers to exact provisions within statutes.

Ch.

Meaning: Chapter – Refers to chapters within the Florida Statutes or other legal codes.

Function: Identifies legal chapters governing administrative hearings or other processes.

U.S.C.

Meaning: United States Code – Codification of federal statutory law.

Function: Cited for federal laws applicable to civil rights and whistleblower actions.

False Claims Act (31 U.S.C. §§3729–3733)

Meaning: Federal law imposing liability on individuals or entities that defraud government programs.

Function: Allows private citizens (via qui tam actions) to file lawsuits on behalf of the government and receive a percentage of recovered funds.

Florida's Whistleblower Act (§112.3187, F.S.)

Meaning: State law protecting employees and contractors who report violations, gross mismanagement, or waste of public funds.

Function: Shields whistleblowers from retaliation and enables legal remedies.

Florida's Public Records Law (Chapter 119, F.S.)

Meaning: State law granting citizens the right to access public records of governmental bodies in Florida.

Function: Ensures transparency and accountability in government operations by providing access to records.

Bert J. Harris Act (§70.001, F.S.)

Meaning: State law providing compensation for property owners whose land use is unfairly burdened by government action.

Function: Enables landowners to seek damages for regulatory takings.

42 U.S.C. §1983

Meaning: Section 1983 of Title 42 – Federal statute allowing lawsuits for civil rights violations by government officials.

Function: Provides a legal avenue to challenge constitutional rights violations.

Clean Water Act (33 U.S.C. §1251 et seq.)

Meaning: Federal law governing water pollution and protection of U.S. waters.

Function: Regulates discharges into water bodies and wetland preservation.

EPA

Meaning: Environmental Protection Agency – Federal agency managing environmental protection and regulation.

Function: Oversees federal environmental law compliance and reviews.

USDA

Meaning: United States Department of Agriculture – Federal agency supporting agriculture and land use programs.

Function: Manages conservation programs and agricultural assistance.

NRCS

Meaning: Natural Resources Conservation Service – USDA agency providing conservation and technical assistance.

Function: Supports landowners in soil and water conservation practices.

SFWMD

Meaning: South Florida Water Management District – Regional agency managing water resources in South Florida.

Function: Regulates water use and can override certain local environmental enforcement.

FDEP

Meaning: Florida Department of Environmental Protection – State agency overseeing environmental management and regulatory compliance.

Function: Provides oversight for county environmental agencies like DERM.

ERP

Meaning: Environmental Resource Permit – A state permit required for activities affecting wetlands and surface waters.

Function: Used to regulate development and land use impacts on water resources.

DAT

Meaning: Digital Audio Tape – Used for data backup storage in government systems.

Function: Refers to DERM's archival system containing historical records.

GIS

Meaning: Geographic Information System – Technology for mapping and analyzing spatial data.

Function: Used in environmental assessments and wetland delineations.

EQCB

Meaning: Environmental Quality Control Board – Miami-Dade board addressing environmental disputes and variances.

Function: Provides an administrative venue for challenging DERM actions.

qui tam

Meaning: Latin for “he who sues on behalf of the king and himself” – Whistleblower lawsuits under the False Claims Act.

Function: Enables private citizens to expose fraud and share in government recoveries.

per se

Meaning: Latin for “by itself” – Something inherent or self-evident.

Function: Legal term clarifying a matter stands alone without further proof.

This glossary reflects all statutes, abbreviations, and Latin terms from the Class IV Permit Defense report.

For more support or to share your case, visit:

www.MiamiDade.watch

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