

How DERM Evades Legal Liability by Ignoring Scientific Evidence

And How You Can Fight Back Using the Bert J. Harris, Jr. Property Rights Act

1. Understanding the Bert J. Harris Act (Chapter 70, Florida Statutes)

The **Bert J. Harris, Jr. Private Property Rights Protection Act** is a powerful Florida law that protects landowners when a government agency goes too far.

It says that **if a government action “inordinately burdens” your property rights**, even if they don’t take your land outright (like through eminent domain), **you may be entitled to compensation**.

You don’t need to prove theft. You only need to prove that:

- The agency made an unreasonable decision,
- Their enforcement was legally unsupported, or
- Their action severely limited what you could lawfully do with your land.

2. Why DERM Ignores Valid Scientific Reports: To Dodge Liability

If a farmer provides **independent, science-based evidence**—such as a **wetland delineation prepared under Rule 62-340, F.A.C.**—DERM should legally be required to review it.

But if they did, they’d be admitting that:

- Their original enforcement or wetland designation was **wrong or flawed**,
- Their decision **unjustly restricted your land**, and
- You now **qualify for compensation** under the Bert Harris Act.

So what does DERM do instead?

They pretend your report doesn’t exist.

They stall, dismiss, or discredit anything that contradicts their internal files—**even when your report follows the law better than theirs.**

Examples of what DERM may suppress:

- Peer-reviewed environmental studies
- Wetland delineation reports by certified professionals

- Soil maps, hydrologic data, or drone imagery
- Historical land use records
- Legal citations and exemption documentation

3. Denying Evidence Also Lets Them Delay or Block Your Legal Rights

DERM avoids “accepting” your evidence because that would trigger deadlines, appeals, and potential lawsuits. If they never respond formally, they can argue:

“We haven’t made a final decision yet.”
 “You didn’t follow proper procedure.”
 “The case is still under review.”
 “The Harris Act clock hasn’t started.”

By doing nothing, they block everything.

This tactic denies you due process, delays your legal options, and protects DERM from being held accountable—**unless you escalate it yourself.**

Bottom Line:

DERM avoids financial liability by ignoring science.

If they admit your evidence is valid, they could owe you tens of thousands—or more—under the law.

Their refusal to accept outside reports is **not accidental. It is a legal strategy.**

It keeps their enforcement in place and prevents you from getting justice.

Strategic Response: How to Protect Your Rights and Set the Legal Record

Here’s how you fight back—step by step:

1. Document the Denial

Write down every attempt you made to submit valid scientific or legal information.

Example:

“On [DATE], I submitted a professional wetland delineation prepared in accordance with Rule 62-340, F.A.C. DERM has refused to respond, evaluate, or acknowledge the report as of [TODAY’S DATE].”

Keep emails, certified mail receipts, and photos of in-person submissions — they’re your paper trail and proof that agencies received your evidence, even if they later pretend they didn’t.

2. Use Their Silence as Legal Evidence

Their refusal is **evidence** of evasion.

Cite this in writing:

“DERM’s failure to consider a properly submitted report under §373.421(1), F.S., and Rule 62-340, F.A.C., is a deliberate evasion of statutory duty and a cause of inordinate burden.”

3. File a Bert Harris Act Claim “Under Protest”

Even if DERM never officially rejected your evidence, you can **preserve your legal rights** by stating:

“I am filing this claim under the Bert J. Harris, Jr. Act to preserve my rights, based on DERM’s refusal to review submitted evidence and the resulting inordinate burden on my property.”

This not only notifies them legally—it gives you leverage in negotiations or court.

4. Take It Public

If the law won’t get their attention, **the public might**.

Statement for community meetings or media:

“Miami-Dade County’s DERM is ignoring professional scientific reports to avoid compensating farmers they’ve wrongly targeted. This is abuse, not enforcement.”

Consider posting:

- Online summaries of your experience
- Letters to county commissioners
- Petitions or legal support fundraisers

Final Message:

DERM cannot be allowed to **silence science** just to protect themselves from paying for their mistakes. Your land is worth fighting for—and **so is the truth**.

Disclaimer: This is not legal advice. Consult an attorney for guidance.

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