From: 309robertk
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Subject: Request For Reconsideration (RFR): Orange County 2025-00062 ROBERT KUPKE, AMARA SMITH Hearing Room 2
Date: Saturday, December 13, 2025 9:33:45 PM
Attachments: 2025-00062.pdf

Request For Reconsideration (RFR) OCVABSM # 2025-00062

Kupkey Ranch Enterprises (KRE) has received the notice of denial on 5 December 2025 via email from the Orange County Value Adjustment Board Office (OCVABO). Please be aware that KRE requested and was approved, that both OCVABSM #2025-00035 Rotational Grazing Parcel (RGP) and III*OCVABSM # 2025-0062 (AOS/QZ Parcel) evidence be included in both Hearrings. This is why KRE requested the OCVABSM be the same person for both Hearings and the Hearings be back to back/adjoined.

KRE completely understands that the petitioner only has 10 days from this date (5 December 2025) to submit RFR. KRE has submitted this RFR in a timely process. Below is what KRE would like to submit into RFR evidence, concerning this Hearing:

First requirement -There is nothing discussed in this email or attached to this email that the III*Orange County Value Adjustment Board Special Magistrate (III*OCVABSM) has not seen/discussed/referenced, in a timely fashion. Please do not state that KRE is trying to show additional information/evidence that was not evaluated/perused by this III*OCVABSM. This action will be considered a false statement.

Second requirement - KRE clearly and unequivocally states that the III*OCVABSM totally disregarded Florida State Statutes and long established Best Management Practices (BMPs) dictated by the Florida State Legislators/Officials. Remember the ss193.461 is what the Agricultural Classification (AC) is centered around. This is a Florida State Statute. KRE request that the Lawyer(s) reviewing this RFR, also recognize other Florida State Statutes/BMPs that was KRE referenced at the Hearing (the III*OCVABSM was supplied this information for her evaluation)

The following is what KRE objects to concerning this Hearing and her Findings Of Fact (FOF):

1. During the Hearings, the OCVABSM clearly violated protocol by **NOT** allowing KRE to directly question the Orange County Property Appraiser Representative (OCPAR). This was facilitated by the III*OCVABSM direction that all KRE's questions "BE ASKED TO HER and **SHE WILL THEN"** ask the questions, that she feels is relevant to the OCPAR answering. This severely hinders the Petitioner when this practice is subjugated/exercised/executed. KRE requested numerous times for OCPAR to answer critical Petitioner questions.... but we're denied/not answered. KRE put in a formal objection of this somewhat shielding action, but was utterly denied. Under the rules of Chapter 12d-9.025 Procedures for Conducting a Hearing (5) "When testimony is

presented at a hearing each party shall have the right to cross-examine any Witness". Also, under (7. B) the board or special magistrate shall have the authority at the hearing to ask questions at any time of either party, the witnesses, or board. When asking questions the board or special magistrate shall not show bias for or against any party or Witness. See Note *1.

2. The OCVABSM clearly did not follow ss163.3162. This State Statute clearly states that Commercial Horse Hay (CHH) would be considered a AGRICULTURAL CROP and STORAGE of this CHH is an acceptable BMP. OCPAR in the past three OCVABSMs have clearly stated this is not true and the III*OCVABSM again went with this flawed hypothesis/opinion. The recent Senate Bill 374 which became law in July 1st of 2025 clearly updated this Florida Statute due to these false OCPAR's hypothesis. It is the belief of this License Agriculture Consultant (LAC) and Agricultural Subject Matter Expert (ASME) this statement is true. KRE believes this State Law change was a direct result from these Orange County Entity's actions. It should be noted, the addition of the outside storage to this State Statute: on site is estimated by the OCPAR of over 16,000 ft of storage under roof. NOTE...Just having these STORAGE buildings on site and used by KRE is a fulfillment of ss193.461. KRE is not just "working out of a garage and selling a box of tomatoes", per I *OCVABSM; this is a massive complex of storage buildings that were built under ss604.50 throughout the magnitude of years, that Carden Farms operated at this site. KRE is utilizing all of these storage buildings as "a integral part of a farming operation" as dictated by ss604.50.
3. KRE formerly requested a minimum of 1 hour, just for KRE to give their presentation. KRE at this Hearing, was informed that this would not happen. KRE designed their presentation/strategy around this requirement, to fully illuminate their defense for a AC. A third party Observer, attending the hearing, stated that "KRE only received 23 minutes and many of these minutes were over formal denial issues/argument that the III*OCVABSM did not forward on/ask the OCPAR critical questions that needed to be answered". Unequivocally, this action clearly and concisely affected the Petitioners right to assist in the their burden of proof.
4. Under ss823.14 the Right to Farm Act, it clearly states the definition of a Farm. "Farm" means the land, buildings, support facilities, machinery, and any other appurtenaces used in the production of farm or aquacultural products This is the definition of what KRE used to ensure they met the formal AC requirements. It is KRE"s belief the III*OCVABSM used the OCPAR's evidence/flawed hypothesis and not this State Statute for which the OCPAR must adhere to. Unfortunately in the III*OCVABSM's FOF conveniently did not address any of thes issues. KRE requested in formal written format , July 2024 for the formal definition of a Agricultural Operation Site (AOS) and Quarantine Zone (QZ) requirements. At this hearings KRE asked for these critical questions be answered and we're shielded by the III*OCVABSM and her "ask me then... I'll ask them" policy.
5. Under ss823.14 The Right To Farm Act, it clearly states for the definition of a "Farm Operation" means all conditions or "activities by the owner, leasee, agent, independent contractor, or supplier which occur on a farm in connection with a production of farm .."".....Again, it is clearly evident and unequivocally proven that no one in these Orange County entities is followng this State Definition. KRE is a bona fide/established Agricultural Operation/Endeavor (AO/E). At this Hearing this KRE business AO/E was not contested. See Note *2 On both of these requested ACs, KRE already is considered a established AC, recognized a bona fide - AO/E. The requested parcels in question for AC, are clearly "a integral part of this (KRE) farming/ranching AO/E". KRE over the years have stored massive quantities of Commercial Horse Hay (CHH), KRE equipment

and supplies. And the OCPAR deliberately shows up when the storage barns are empty. WHY IS KRE paying $10,000 per year for this under roof space, not for personal items; but bona fide commercial storage of agricultural equipment and supplies. If this is not an integral part of KRE's AO/E, then the III*OCVABSM in her FOF, should have dictated why it did not merit the requested AC.

6. Understate ss604.40 Farm Equipment it clearly states the definition for Farm Equipment. The real question comes back is whether "cars, tires, boats and equipment which did not appear operational and this weighted against granting the classification". KRE is a bona fide AO/E and uses this KRE FARM EQUIPMENT and supplies. The OCPAR/III*OCVABSM is clearly disregarding the ss604.40 concerning this issue.

   Can the above listed cars, tires, boats and equipment be Farm Equipment??? KRE is using these items for its AOE. Although they may look like personal items, the ss604.40 clearly by definition ....they are Farm Equipment. Whether they have to be operational or not again is covered by ss604.40, the answer for this is IT DOES NOT MATTER. Furthermore, the OCPAR/III*OCVABSM clearly does not know what the State Statutes are concerning Farm Equipment and is using the premise/false hypothesis that these are personal equipment. Even if they were personal equipment they are still considered Farm Equipment under 604.50. See Note *3

7. In the FOF, the III*OCVABSM clearly states that only .018 acre (internally QZ fenced pen -undercover) is attributed to the QZ. OCPAR stated "few livestock" but KRE supplied Quarantine Zone Spreadsheets clearly show over 35 animals (livestock) went through this system. This is a false OCPAR statement, as KREs site survey (April 2024) clearly shows goat/cattle herd running free and no issues whatsoever we're raised by the OCPAR/III*OCVABSM concerning perimeter fence lines....THEN. The perimeter fence lines were completely up during the year of 2024. Around March 2025 KRE was actively AGAIN removing invasive species (castor bean) from the fence lines. Looking at the 2025 photos you can clearly see where the ground under these open fence perimeters breeches has been disturbed by mechanical equipment ripping up the root ball system of these invasive species. Another note here should be stated ...that the Orange County Environmental Protection Department (OCEPD) exactly stated this was illegal (removal of invasive species from Wetland Zone) and forced KRE to stop work in late 2024. All KRE fence lines that were affected were immediately repaired . Later it was shown that the OCEPD had NO JURISDICTION ON THIS ACTION DUE TO AGRICULTURAL ACTIVITIES/ "a integral part of a farming operation" and the issue was remanded up to the State Officials. State Officials took no action against KRE, as this is a well-established State BMP. Discussions on how another entity within the Orange County Government (OCEPD) clearly approved KRE's AO/E AC SITE as a bona fide agricultural operation. THIS was discussed during the III*OCVABSM's Hearing. KRE asked when would they be able to have a fence line down and do they need to call OCPAR "for permission to remove/repair any fence lines that KRE deem need to be replaced due to the removal of this issue". KRE skillfully asked this question to be posed to the OCPAR for answer but the III*OCVABSM failed/shielded to have OCPAR answer the question. This poses an important question for all AO/E's throughout the State of Florida. Can the local Property Appraiser show up at any time and notice the fence lines have been breached (a year later, 2025) and then state sorry your fence lines (small breach evident) do not meet our standards for AC throughout the established process for AC??? . For the judicial record and recorded at this hearing "KRE's perimeter fence lines in 2024 we're never contested or even raised by the OCPA/II*OCVABSM in her previous FOF". This should be a clear statement that a AO/E can repair their fence lines on an ongoing endeavor without the

local Property Appraiser approval. If this requirement is upheld in the Judicial Courts, then all AO/E's throughout Orange County must have the permission first from the OCPAR to actively work on fence lines before they even touch or remove them if they are applying for a AC.

8. Furthermore, this .018 acre figure given by the OCPAR/III*OCVABSM FOF has never been explained what it contains in its calculations. This question AGAIN was asked but not answered by the OCPAR at this Hearing. Foremost and most important in this entire FOF that under ss193.461 it clearly states (3.b.1.d) "Size, as it relates to us specific agriculture use, but a minimum acreage may not be required for agricultural assessment". A AC cannot be evaluated by the size of the AO/E . The III*OCVABSM clearly and concisely has violated (by established State Law) this FOF by stating this false hypothesis. REALITY = Just getting from the QZ pen to Trevarthan Road is over (by KRE calculations) = 1 acre . This QZ pen can ALSO BE EXPANDED using the 8 ft by 16/20 ft long panels shown in the 2024/2025 site survey photos. These QZ panels can easily be carried by two KRE personnel with a screw gun and instantly make another larger pen under roof. In the past this has been accomplished (when needed)... it was more critical to KRE to use that under roof space of this massive Storage Barn complex for KRE equipment storage. Another note to raise from the Hearing, the nearby and adjacent support facilities ARE needed for the QZ pen logistical support. Livestock at this KRE site must be put in the 8' high QZ enclosure at night or coyote predation will have extensive mortality. See Note*3
9. The III*OCVABSM stated "the petitioner did show some photos of hay being stored this did not appear to be the primary use of this site or part of a bona fide commercial agricultural business". KREs experience this WITH both the previous I*OCVABSM & II*OCVABSM and diligently tried this time around for III*OCVABSM to have OCPAR come out in the January 2025 time frame to physically witness the"excess enclosed areas that had Commercial Horse Hay (CHH) was used for multiple 100+ CHH round bale storage. The previous two Special Magistrates explicitly stated this (did not believe KREs photos) and KRE tried to get OCPAR to personally view the mass amount of CHH that was stored in the storage barns. Coming out in April 2025 is when the storage barns are empty. OCPAR completely and utterly understands this FACTOR and that is the reason why they did not come out and see the storage barns full of CHH when the crossover from 2024 to 2025 happened. This is a convenient way by OCPAR to clearly and concisely stop the Petitioner from showing that the storage barns were massively used (CHH STORAGE) for agricultural storage purposes. This issue was raised by KRE but the III*OCVABSM shielded/did not ask OCPAR to elaborate on why they did not come out and view CHH in January 2025. KRE used past emails to OCPAR showing this Emailed record as a willful act by them to stalemate the Petitioners CHH storage evidence.
10. KRE equipment storage was questioned at this site. KRE asked the III*OCVABSM what exactly does OCPAR see at the site as personal equipment of Leasor. OCPAR answered a wheeled bobcat from previous pictures. KRE laughed at this statement because on the back of this bobcat in the newer 2024/2025 photos shows clearly a KRE ownership symbol. This Bobcat was acquired from the Leasor in 2023 for work performed on site by KRE. Other six articles of farm equipment equipment on site (Car, boat... Etc.) are from the agriculturally minded sub-tenants in which KRE allows to be on this site. All the rest shown in the photos clearly and concisely are KRE's agricultural Farm Equipment, future building materials and supplies "used in an interval part of a farming operation" ON SITE..
11. KRE may be wrong and this assumption, but the question was asked "....does the

OCPAR follow Florida State Statutes and BMPs other than ss193.461". The III*OCVABSM did not forward this question on and was not answered by OCPAR. By this action KRE is undoubtedly perplexed if there is additional requirements that the OCPAR/OCVABSM place on the ss193.461 AC requirements without other State Law and BMP involvement.

12. One of the few things the III*OCVABSM referenced in her FOF is how many times the OCPAR took pictures that showed breeches in the perimeter fence . The III*OCVABSM even referenced in her FOF, "Goat Quarantine Zone", this is incorrect as it is for Livestock (Livestock Quarantine Zone) and if you look at the OCPAR photos it clearly shows two black heifers (Cattle) in the QZ pen. Cattle could breach the perimeter fence line (in three locations, April 2025) that is the reason why they were in the pen . Goats and horses on the other hand will not go into the swamps and water up to their bellies making it a natural barrier in the back of the subject property. On the other hand, at KRE's main-side location there is a pond that goes between two properties. There is not a fence line going across the pond. This is a common BMP process and remember the pond area already possess bona fide ACs (14 plus sites just in Orange County). During this KRE Lake Pickett Road Main- Side site survey there were over +/-300 pictures taken of the complete KRE Main- Side location. Strange how only one photo of all those photos showed a single cow standing in the background. I attended this site survey and witnessed the OCPAR takeing numerous pictures of KRE's cattle herd, but they were not supplied in the formerly requested evidence photograph package. The next time a OCPAR shows up at any KRE AO/E AC locations, I will take a picture of the OCPAR with cows standing in the background, to stop this detrimental/deliberate practice from happening again. See Note *4

In KRE's evidence package - white volume it delineates /outlines KRE's opinions of why the past I*OCVABSM and II*OCVABSM that was rejected through the RFR process. KRE is not going to discuss these issues again in this RFR. These FOFs concerning these two OCVABSM's opinions was drastically affected by the new ss163.3162 . See Note *4. This information was clearly available to the III*OCVABSM. KRE requests that the two failed/previous RFR(s) be included in this RFR . KRE does not know if the III*OCVABSM even evaluated these past Petitioner critical documents as her FOF does not reflect any review.

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KRE requests another Hearing be held, using the same formal evidence applied/submitted at this Hearing..NO NEW EVIDENCE (which is a justified proposal). The OCVBSM can be the same Special Magistrate. All RFR written evidence will be the only newly submitted evidence to this Hearing. At this new Hearing..... "KRE's hands will be untied and the gag taken out of his mouth". OCPAR will answer questions from the Petitioner as posed, under oath. KRE requires at least 1 hour for their allotted time frame in this Hearing. Finally and THE UPMOST IMPORTANCE, OCPAR will formally answer all of KRE's written questions submitted to them in July of 2024. A formal written response is required from OCPAR before this new Hearing, at least 10 days prior. We need to know the standard of a AOS & QZ & RGP, the Petitioner must meet and not be a unknown/divergence/false hypothesis.

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In conclusion, KRE clearly can read what is called "the writing on the wall". "The writing on the wall" clearly will dictate that the OCVABO/Lawyer will dismiss this RFR for some reason .....whatsoever. The final Volunteer Board of the Orange County Value Adjustment Board will never even know there is a severe conflict going on within their own Department . KRE clearly and concisely knows this as. ....this document was not just written for the RFR, but

for the local Judicial Court System to evaluate OCVABO overall system as it pertains to a AO/E trying to get a AC within Orange County.

Happy holidays,

Robert Kupke
Kupkey Ranch Enterprises
A Fresh From Florida Agricultural Business, Established In 1909

Note *1 Both of these Hearings were considered/conducted as a fact-finding mission to uncover the continuous denials of AC by the OCPAR/III*OCVABSM/OCVAB. This objective was centered around the third time for the AOS/QZ and the first for the BMP RGP. KRE was going to go directly to the Judicial Court on the second time around for the AOS/QZ, but was requested by the folks in Tallahassee, Gainesville and Kissimmee to ask critical questions of the OCPAR for a fact-finding mission. KRE brought these critical questions to the III*OCVABSM Hearings, but were systematically denied answers by the III*OCVABSM to the OCPAR, under oath. KRE brought in the BMP RGP to gain more time to ask OCPAR additional questions due to TIME constraints. OCPAR continuously and concisely, using evidence suppression does not give you the requested answers requested from the Petitioner, in a formal written format . How can you reach a AC standard that you do not even know what the AC standard is by OCPAR's requirements. KRE has endeavored since July 2024 to gleam/fortify information from OCPAR for their official AC denial . OCPAR continuously state "we are meeting our statutorial requirements" and give no more critical requested information . These Hearings, where to put OCPAR in a position where they were required to answer Petitioner required questions and the OCPAR concisely avoided what KRE's mission was to accomplish with the aided help of the III*OCVABSM. Both of these Hearings now will be taken to the upper Judicial Order. Clearly by the III*OCVABSM's FOF on both Hearings, it shows she expressed little of why each individual items of the mandated requirements of ss193-461 we're listed for denial. This note*1 was briefly /combinely discussed during the OCVABSM's hearings, for the official record.

Note *2. During the Hearings, KRE brought up that the OCPAR clearly and concisely has evaluated all of the KRE's **AC** AO/Es located in Orange County proper. Under the ss193.461 requirements, the local Property Appraiser must evaluate all ACS for adherence to bona-fide requirements listed in this State Statute. Three years have passed (this denial issue -AOS/QZ) in Orange County for KRE's ACs AO/Es and the OCPAR has not remanded/ordered any other denials on establish KRE ACs in Orange County. KRE has been AC continuously established since 1997 in Orange County. By Florida law, KRE is considered a bona- fide commercial AC AO/E : but the two Parcels in OCPAR's denial, KRE does not meet this AC standard. ....WHY....This is an absurd statement by the OCPAR /III*OCVABSM - "do not recognize this parcel as bona fide Agricultural Classified". KRE considers all of this debacle, a clear sign and twerkings/workings of local government harassment against an established KRE AC AO/E. Under ss163.3162 It clearly states local governments must stop this practice. Is Orange County Entities ahearing to this State Statue directive???

Note *3. Supplied in KRE's formal evidence package is the case law of KUPKE versus Orange County. Who would believe that Orange County entities would make the same comprehensive mistake they did back in 1998 to 2008. Ss604.40 Farm Equipment was written due to Orange County's entities lack of poor/proper judgment for Farm Equipment. Back then (1997- 2004) Orange County Code Enforcement Board stated that a bushhog, bulldozer,

backhoe, forklift and bobcat...etc are not Farm Equipment but Construction Equipment. When this was evaluated in the Appellate Court Arena, this false hypothesis was shattered. The OCPAR/III*OCVABSM are stating that this "Farm Equipment is Personal Property". This is completely a new tactic but KRE believes ....will not hold up in the Appellate Level Court. History is about to repeat itself again, and this Local Governmental Agency cannot evaluate/comprehend/be educated in past history with KRE AO/E , in the correct definition of Farm Equipment.

Note*4. Remember KRE is actually seeking a AC on this subject agricultural parcel. If AC is already granted, then ss163.3162 takes over and the local County entities is forbidden by State Law to do this unorthodox process. Strange, how a Petitioner applying for AC cannot have the same requirement/safeguards as a person who is received a AC, through the current process. This raises the old adage of "you are putting the cart before the horse". The folks in Tallahassee, Gainesville and Kissimmee need to evaluate this importing aspect for anyone attempting to get an AC through this current FLAWED process. Local Governments Entities can clearly and concisely stop all AO/E from ever even getting a AC in their local County with this draconian policies/mandates. This issue was clearly discussed at the Hearing.

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December 29, 2025

VIA E-MAIL

Orange County Value Adjustment Board

Re: Opinion on Request for Reconsideration
Pet. No.: 2025-00062
Petitioner: Kupkey Ranch Enterprises

Dear Hon. VAB Clerk:

I have reviewed the petitioner's Request for Reconsideration ("RFR") dated December 15, 2025, the Special Magistrate's ("SM") Recommended Decision ("ROD"), and, as appropriate, the evidence submitted by both the Property Appraiser's Office ("PAO") and the petitioner for the underlying hearing.

I. Background

Kupkey Ranch Enterprises ("PET") seeks reconsideration of the SM recommended decision denying an agricultural classification for the parcel identified in Petition No. 2025-00062, described by the PET as its Agricultural Operation Site/Quarantine Zone ("AOS/QZ") parcel.

A hearing was conducted on November 17, 2025, via Webex and lasted approximately one hour and twenty-two minutes. The PAO was represented by counsel and staff. Mr. Robert Kupke appeared and testified for the PET.

The PAO's evidence and testimony focused on site inspections, code-enforcement and environmental history, photographs, and the nature and intensity of agricultural use on the parcel, including the condition of perimeter fencing, the size and configuration of the asserted quarantine area, and the presence of vehicles, boats, materials, and other stored items. The PET's evidence and testimony emphasized the parcel's role in the PET's overall agricultural operation, storage of commercial horse hay ("CHH"), use of nonresidential farm buildings, and use of the quarantine area for livestock.

The SM issued a recommended decision denying agricultural classification, concluding that the parcel did not meet the requirements of section 193.461, Florida Statutes, based on the nature and intensity of use and the statutory factors, as reflected in the DR-485V Recommended Decision.

The PAO did not file any written response to the RFR within the applicable 10-day period. This opinion is based on the RFR, the hearing transcript, and the evidentiary record.

II. Issues Raised in the RFR

In summary, the PET asserts the following grounds for reconsideration:

1. **Cross-examination / Hearing management.** The PET claims the SM violated due process and Rule 12D-9.025, F.A.C., by not allowing the PET to directly question the PAO's witnesses and instead requiring that questions be routed through the SM, who then decided which questions would be asked. The PET contends that several "critical" questions were never asked or answered.

2. **Alleged disregard of Florida statutes and BMPs.** The PET contends the SM "totally disregarded" section 193.461, Florida Statutes, and related statutes and Best Management Practices ("BMPs"), including sections 163.3162, 823.14, 604.40, and 604.50, Florida Statutes all of which the PET asserts support agricultural classification for the parcel when used for CHH storage, farm equipment storage, and quarantine activities.

3. **Time allocation / Opportunity to be heard.** The PET states it requested at least one hour solely for its presentation but received only about 23 minutes, much of which was consumed by procedural disputes and questions, which the PET argues impaired its ability to meet its burden of proof.

4. **Application of "farm" and "farm operation" definitions.** The PET argues that under section 823.14, Florida Statutes (Right to Farm Act), the parcel's buildings, support facilities, and storage activities are part of a "farm" and "farm operation," and that because the PET is a long-established agricultural operation with other classified parcels, the AOS/QZ parcel must be treated as an integral part of that operation.

5. **Treatment of vehicles, boats, and materials as "farm equipment."** The PET disputes any conclusion that "cars, tires, boats and equipment which did not appear operational" count against agricultural classification, arguing that under section 604.40, Florida Statutes, such items qualify as "farm equipment" when used in the PET's agricultural operation, regardless of appearance or operability.

6. **Quarantine Zone size and perimeter fencing.** The PET objects to the SM's focus on an internal, roofed quarantine pen of approximately 0.018 acre and on breaches in perimeter fencing. The PET argues that section 193.461(3)(b)1.d, Florida Statutes allows consideration of "size" but forbids any minimum acreage requirement, and contends that the functional quarantine use encompasses a much larger area (about one acre including movement corridors), with more than 35 animals processed through the system, and that any fence breaches were temporary and associated with invasive species removal.

7. **Extent of CHH storage and agricultural use.** The PET asserts that the PAO and the SM downplayed CHH storage and agricultural use and that storage barns have historically held large quantities of CHH as part of the PET's operation. The PET contends that the PAO inspected at times when barns were empty and that the SM's conclusion that hay storage was not a primary use is erroneous.

8. **Failure to respond to written questions and define AOS/QZ standards.** The PET asserts that it submitted written questions in July 2024 seeking the PAO's definitions and standards for an Agricultural Operation Site ("AOS") and Quarantine Zone ("QZ"), but that the PAO did not respond and the SM did not require answers, leaving the PET uncertain what standards it was expected to meet.

9. **Requested remedy.** The PET requests a new hearing before the same SM, using only the evidence already in the record plus the written RFR, with additional time for the PET's presentation and direct questioning of the PAO under oath.

The PET also asks the Board to consider prior RFRs and disputes involving other PET parcels as part of this RFR.

III. Procedural Framework

1. **Scope of reconsideration.** Reconsideration is an extraordinary remedy. It is not a de novo hearing or an opportunity to re-try the case. The VAB may grant reconsideration only upon a showing of: (a) a material error of law; (b) material misstatement or omission of a dispositive fact; or (c) due process or procedural violation that likely affected the outcome.

2. **Existing record only.** The RFR must be decided based on the existing hearing record. To the extent the RFR or its attachments reference matters outside the record (including prior proceedings or external correspondence), those materials cannot be treated as new evidence in support of this petition.

3. **No PAO response.** The PAO's failure to respond does not operate as a concession. The question is whether the SM's recommended decision is supported by competent, substantial evidence and consistent with applicable law.

IV. Legal Standards

1. **Agricultural classification – section 193.461, Florida Statutes.** Land must be used "primarily for bona fide agricultural purposes" as of January 1 of the tax year. The statute directs consideration of various factors, including the length and continuity of use, the size of the property relative to the specific agricultural use, customary agricultural practices, care and maintenance, and whether the use is "for a good faith commercial agricultural use." Section 193.461(3)(b)1.d expressly allows consideration of size "as it relates to the specific agricultural use" but forbids a rigid minimum-acreage requirement.

2. **Right to Farm Act and related provisions – sections 823.14 and 163.3162, Florida Statutes.** These statutes primarily restrict local government regulation and nuisance claims against bona fide farm operations. They do not automatically confer agricultural classification under section 193.461; each parcel must still be evaluated under the classification criteria.

3. **Farm equipment and nonresidential farm buildings – sections 604.40 and 604.50, Florida Statutes.** These provisions define "farm equipment" and exempt certain nonresidential farm buildings from building codes and local regulation. They do not, by themselves, mandate agricultural classification for ad valorem tax purposes.

4. **Hearing procedure – Rule 12D-9.025, F.A.C.** The rule guarantees each party the right to present evidence, cross-examine witnesses, and make argument. The SM may regulate the mode and order of interrogation, ask questions, and maintain order, provided both parties receive a meaningful opportunity to be heard.

V. Analysis

A. Hearing Management, Cross-Examination, and Time

The PET maintains that the SM "shielded" the PAO by requiring that the PET's questions be routed through the SM and by limiting the PET's time.

The hearing transcript shows that:

- The SM opened the hearing by explaining the process and administering oaths.
- The PAO first presented its case, including testimony on inspection dates, photographs, and code-enforcement history.
- The PET then presented extensive testimony discussing the PET's overall ranch operations, the claimed role of the AOS/QZ parcel, CHH storage, quarantine practices, and statutory arguments.
- The PET frequently questioned and challenged the PAO's evidence and conclusions. The SM directed the PET to address questions through the SM, but the transcript reflects that questions on key points—CHH storage, building use, fence condition, animal movement, inspection timing—were in fact aired and discussed.

The SM's choice to control the flow of questions and to filter them for relevance falls within the discretion afforded by Rule 12D-9.025. The critical due process inquiry is whether the PET had a meaningful opportunity to cross-examine and challenge the PAO's evidence. The transcript demonstrates that the PET did so at length.

The PET also claims it received only about 23 minutes of presentation time. The audio length and transcript show that the overall hearing lasted significantly longer and that the PET occupied a substantial portion of that time with its testimony and argument. Even if the PET did not receive the precise amount of time it requested, there is no indication that the SM cut off key lines of evidence or prevented the PET from presenting its primary factual and legal contentions.

On this record, there is no procedural error or denial of due process that would justify reconsideration.

B. Application of Section 193.461 and Related Statutes

The PET argues that the SM "totally disregarded" section 193.461 and various agricultural-protection statutes, asserting that:

- CHH is an agricultural crop and its storage is a legitimate BMP;
- The AOS/QZ parcel's buildings and facilities are part of a "farm" and "farm operation"; and
- Under sections 604.40 and 604.50, vehicles/boats/equipment and barns on the parcel must be treated as supporting agricultural classification.

The record, however, indicates that the SM applied section 193.461 as the controlling statute and considered the following:

- The extent and continuity of CHH storage on the parcel as of the assessment date;
- The presence of multiple non-agricultural or non-operational items (vehicles, boats, materials) stored on the property;
- The condition and integrity of perimeter fencing at the time of inspections;
- The size and configuration of the quarantine area relative to the claimed use; and
- Evidence of code-enforcement issues.

The PET's cited statutes (sections 823.14, 163.3162, 604.40, 604.50) may limit local regulation of bona fide farms and nonresidential farm buildings, and may define "farm equipment" broadly, but they do not require that any parcel containing such items automatically receive agricultural classification. Section 193.461 remains the standard, and the SM's task was to determine whether, in light of all evidence, the parcel's *primary use* as of January 1 was a good-faith commercial agricultural use.

The SM's conclusion that the parcel's predominant, actual use did not meet that standard is a factual determination based on the record, not a misapplication of law. The RFR does not identify any specific statutory subsection that the SM misread or ignored in a way that would change the outcome.

C. Quarantine Pen Size, Overall Area, and Perimeter Fencing

The PET objects to the SM's reference to a 0.018-acre roofed quarantine pen, arguing that the functional quarantine area is closer to one acre and that over 35 animals passed through the system, with temporary fence gaps linked to invasive-species removal.

The SM is expressly permitted by section 193.461(3)(b)1.d to consider "size, as it relates to the specific agricultural use." The record reflects that:

- The PAO documented a relatively small, roofed quarantine structure and testified that actual quarantining appeared limited to that area.

- The PAO also presented evidence of fence gaps and openings in 2025 that, from the PAO's perspective, diminished the effectiveness or intensity of the quarantine use.

- The PET testified that the quarantine function is broader than the pen itself and that fence conditions at certain times reflected maintenance or invasive-species work.

The SM was required to evaluate the scale and intensity of the quarantine activity in context. Referring to the discrete quarantine pen and fencing conditions to assess intensity and continuity of use is consistent with section 193.461(3)(b)1.d, Florida Statutes and does not establish that the SM imposed a prohibited "minimum acreage" rule. Rather, the SM weighed size and fencing as part of the overall "bona fide use" analysis.

D. CHH Storage and Primary Use of the Parcel

The PET asserts that CHH storage was and is a primary agricultural use of the parcel and that the SM and the PAO downplayed this fact.

The record shows:

- The PAO presented photographs and testimony suggesting that, at inspection, CHH was present only in limited quantities, that the barns were largely empty, and that non-agricultural storage and debris were prominent.

- The PET offered contrary testimony that the barns historically held substantial quantities of CHH and that inspection timing did not capture typical storage levels.

The SM had to decide whether CHH storage was the primary use of the parcel as of the assessment date or whether the property's predominant use was mixed or non-agricultural (including storage of non-operational vehicles, boats, and materials, and other uses). That is a question of evidentiary weight and credibility.

The Recommended Decision reflects that the SM considered the evidence, but found the overall intensity and character of agricultural use insufficient to establish a primary bona fide commercial agricultural purpose under section 193.461, Florida Statutes. The RFR does not identify a clear factual misstatement (e.g., a wrong date, number, or exhibit) in the SM's summary of storage activity; instead, it reiterates the PET's interpretation of the same facts. That disagreement does not warrant reconsideration.

E. Other PET Parcels and Prior Proceedings

The PET points out that it has held agricultural classification on other parcels since 1997 and suggests the denial here is inconsistent with its established status as a long-time agricultural operator.

While the PET's broader operations are relevant context, section 193.461 requires a parcel-specific determination of use as of the assessment date. Agricultural classification on other parcels does not compel classification of this parcel. Prior RFRs or disputes involving other properties are not dispositive of this case and do not establish that the SM's decision here is legally incorrect or unsupported.

F. Request for a New Hearing

The PET's requested remedy is an entirely new hearing before the same SM, using the existing evidence plus the RFR, with additional time and direct questioning of the PAO.

The VAB's reconsideration process is not designed to provide a full second hearing absent a material procedural defect or newly discovered evidence that could not reasonably have been presented originally. The record does not show that the PET lacked notice, was denied the right to present evidence, or was denied meaningful cross-examination. Nor has the PET identified new evidence that would justify reopening the record.

As such, there is no basis under the applicable procedures to order a new hearing.

VI. Conclusion and Recommendation

After reviewing the RFR, the hearing transcript, and the underlying record, I conclude that:

1. The PET has not shown that the SM violated Rule 12D-9.025 or denied the PET due process. The SM appropriately regulated questioning and time while allowing the PET substantial opportunity to present testimony and challenge the PAO's evidence.

2. The SM applied section 193.461, Florida Statutes, as the controlling standard and did not misapply sections 163.3162, 823.14, 604.40, or 604.50, Florida Statutes. Those provisions do not override the requirement that each parcel independently qualify for agricultural classification based on its primary use as of the assessment date.

3. The SM's findings regarding the limited size of the enclosed quarantine pen, the condition of perimeter fencing, the extent of CHH storage, and the presence of other uses are factual determinations supported by competent evidence in the record, even though the PET strongly disputes them.

4. The PET has not identified a material factual or legal error in the Recommended Decision that would justify reconsideration or a new hearing.

For these reasons, I recommend that the Orange County Value Adjustment Board deny the Request for Reconsideration for Petition No. 2025-00062; and adopt the Special Magistrate's Recommended Decision as the Board's final decision on this petition.