From:	309robertk
To:	309robertk@gmail.com; Payton Dering; Ana C. Torres; VAB; floridaagclass@gmail.com
Cc:	309robertk@gmail.com
Subject:	Request For Reconsideration (RFR): Orange County 2025-00035 LONDONO MARGARITA MARIA /ROBERT KUPKE, Hearing Room 2
Date:	Friday, December 12, 2025 8:29:07 PM
Attachments:	2025-00035.pdf

Request For Reconsideration (RFR) OCVABSM # 2025-00035

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 Orange County Value Adjustment Board Special Magistrate (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 OCVABSM. This action will be considered clearly a false statement.

Second requirement - KRE clearly and unequivocally states that the 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 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 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. 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. OCPA's actions and position of why KRE failed to receive the coveted AC on this RGP is by false hypothesis. Recent Florida Senate Bill 374 which became law in July 1st of 2025 clearly updated this Florida ss163.3162 due to these type 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. as "a integral part of a farming operation" as dictated by BMPs.
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 19 minutes and many of these minutes were over formal denial issues/argument that the 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 OCVABSM use the OCPAR's evidence/flawed hypothesis and not this State Statute for which the OCPAR must adhere to. Unfortunately in the OCVABSM's FOF conveniently did not address any of thes issues. KRE requested in formal written format , July 2024 for the formal definition of required issues that concerns burden of proof/standards and overall agricultural requirements/ definitions used by OCPAR. At this hearings KRE asked for these critical questions be answered and we're shielded by the 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 are followng this State Definition. KRE is a bona fide/established Agricultural Operation/Endeavor (AO/E). See Note *2 On both of these requested ACs, KRE already is considered a established AC, recognized a bona fide - AO/E. The requested parcel in question for AC, KRE pays $140 lease per year and over $3,000 just rendering the pasture area into a useful improved pasture condition. If this is not an integral part of KRE's AO/E, then the OCVABSM in her FOF, should have dictated why it did not merit the requested AC.
6. 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 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. See Note *2
7. The OCVABSM clearly violated ss193.461 (3.b.1.d) "Size, as it relates to specific agriculture use, but a minimum acreage **MAY NOT** be required for agricultural

assessment." OCVABSM and her FOF states that the OCPAR requires five acres and does not meet that standard therefore .....denial. Is anyone of the Orange County Entities reading the the State Statute that is the governing issue on this AC ... how can they clearly and concisely say this false hypothesis. How many potential ACs have went before this Orange County Value Adjustment Board and used this unjust/illegal FOF requirement as a denial for AC?? This exact issue is only one of the many issues that clearly and concisely fail to meet the Florida State Statutes and other governing laws. See Note *3

8. One of the few things the OCVABSM referenced in her FOF is how many times the OCPAR took pictures that showed NO cattle on site. The OCVABSM even referenced in the Hearing that she was familiar with the BMP of pasture rotation (Cow/Calf BMP Manual). What is very interesting here is why didn't the OCPAR call KRE and asked to come out and do another formal site survey. KRE would have informed OCPAR when they are meeting their BMP's concerning KRE BMP pasture rotation and when the cows would be back on that pasture..... then..... of course ....OCPAR photograph. This exact scenario/issue was explained at the OCPAR's site survey. This clearly was a concise and past educated evidence suppression motive to show .....no cattle on site. This has happened continuously on both of these pieces of KRE leased property. If the OCPAR wants to evaluate something of the KRE AO/E, please contact the Petitioner and ask for updated information.... if required. This clearly was discussed during this Hearings involving the April 2024 site survey of the KRE Main -Side complex located just down the street and the parcels in question. Remember all these already possess bona fide ACs (14 plus sites just in Orange County), are connected and this contested parcel adjoins two of these KRE ACs. 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.

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 gag will be taken out of his mouth and hopefully State Statues will be the governing law vs. ginned up/false hypothesis". 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 questions submitted to them in July of 2024. A formal written response required before this new Hearing, at least 10 days prior. KRE **NEEDS** to know the standard of a RGP, the Petitioner must meet and not be a unknown/divergence/false hypothesis. Strange how if the Petitioner does not answer the OCPAR's formal written questions they are ostracized/forbidden from using them in the Hearing. But if the Petitioner asked the OCPAR formal written questions.. do the OCPAR have to answer and a writing response back, on the Petitioners questions?

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 at this point of time unknown. 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 Entity System. Also the folks in Tallahassee, Gainesville and Kissimmee need a starting point ......somewhere.

Happy holidays,

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

Note *1 Both of these Hearings were considered a fact-finding mission to uncover the continuous denials of AC by the OCPAR. 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 OCVABSM Hearings, but were systematically denied answers by the 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 data from OCPAR for their official 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. Both of these Hearings now will be taken to the upper Judicial Order. Clearly by the 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 was briefly /combinely discussed during the OCVABSM's hearings, for the 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 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 /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 a local government entity cannot do this. Are Orange County Entities ahearing to this Florida State Statue directive???

Note*3. Remember KRE is actually seeking a AC on this 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 concocted / illegal action. Strange, how a Petitioner applying for AC cannot have the same requirements/ protections as a person who has 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 important 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. This issue was clearly discussed at the Hearing.

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December 29, 2025

<u>VIA E-MAIL</u>

Orange County Value Adjustment Board

Re:	Opinion on Request for Reconsideration
Pet. No.:	2025-00035
Petitioner:	Kupkey Ranch Enterprises

Dear Hon. VAB Clerk:

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

I. Background

Kupkey Ranch Enterprises ("<u>PET</u>") filed a petition with the VAB seeking agricultural classification for the subject "rotational grazing parcel" ("<u>RGP</u>"). After an evidentiary hearing, the SM issued a recommended decision denying the requested classification.

The PET timely submitted an RFR challenging both the SM's Findings of Fact and Conclusions of Law and the conduct of the hearing itself. The PAO did not submit a written response to the RFR within the 10-day period allowed by local procedures.

The hearing transcript for Petitions 2025-00035 and the exhibits submitted at the hearing have been reviewed for purposes of this opinion, with specific reference to the issues raised in the PET's RFR.

II. Standard for Reconsideration

Under generally applicable VAB practice and Chapter 12D-9, F.A.C., a request for reconsideration is an extraordinary remedy. It is not an opportunity to re-try the case, re-argue the weight of evidence, or present a new theory of the case.

Reconsideration is appropriate only where the petitioner demonstrates one or more of the following:

1. A material error of law in the SM's analysis;
2. A material misstatement or omission of a dispositive fact in the SM's findings;

3. A denial of due process or a failure to follow mandatory procedures (e.g., Chapter 12D-9, F.A.C., or applicable local procedures) that likely affected the outcome.

The burden remains on the petitioner to show that such an error occurred and that it materially undermines the recommended decision.

III. Summary of the Petitioner's RFR

In the RFR, the PET asserts, in substance, that:

1. **Cross-examination / Hearing Procedure:** The SM allegedly violated Chapter 12D-9.025(5) and (7)(b), F.A.C., by not allowing the PET to directly question the PAO's representatives, instead requiring questions to be routed through the SM, which the PET characterizes as "shielding" the PAO.

2. **Time Allocation / Opportunity to Be Heard:** The PET states it requested a minimum of one hour solely for its presentation but, according to a third-party observer, received only "19 minutes," which the PET argues impaired its ability to meet its burden of proof.

3. **Misapplication of Agricultural Statutes:** (a) the PET asserts the SM disregarded § 193.461, Fla. Stat., and related "Best Management Practices" (BMPs), relying instead on "false hypothesis" from the PAO; (b) the PET cites § 823.14, Fla. Stat. (Right to Farm Act) and § 163.3162, Fla. Stat., contending that the RGP is an integral part of a bona fide agricultural operation and that local entities cannot deny agricultural classification on the asserted grounds; and (c) the PET claims the SM effectively imposed a "minimum acreage" requirement in violation of § 193.461(3)(b)1.d, by referencing a five-acre standard in the Findings of Fact.

4. **Established Agricultural Operation:** The PET emphasizes that it is an established agricultural operation with multiple existing agricultural classifications in Orange County and contends that the RGP should be recognized as bona fide agricultural use as part of that larger operation.

5. **"Evidence Suppression" / Use of Photographs:** The PET asserts that the PAO selectively presented photographs that show no cattle on the parcel while omitting numerous photographs taken at an April 2024 site visit that reportedly show cattle, resulting in "evidence suppression."

6. **Requested Remedy:** The PET requests that VAB order a new hearing on Petition 2025-00035, before the same SM, using only the original evidence plus the written RFR, and require the PAO to provide written answers to its July 2024 questions at least ten days prior to such new hearing.

IV. Applicable Legal Framework

Under Section 193.461, Fla. Stat., the SM and the Board must determine whether the parcel was used for a bona fide agricultural purpose as of January 1 of the tax year. Relevant factors include, but are not limited to, the length of time the land has been so used; whether the use has been continuous; the size of the property relative to the specific agricultural use; customary practices of the industry; and the intensity and profitability of the use.

Section 193.461(3)(b)1.d expressly allows consideration of "[s]ize, as it relates to the specific agricultural use," but provides that "a minimum acreage may not be required for agricultural assessment."

1. **Right to Farm Act and Related Statutes – §§ 823.14 and 163.3162, Fla. Stat.** These provisions primarily limit local governments' ability to treat bona fide farms as nuisances or to adopt regulations that unduly restrict bona fide farm operations. They do not eliminate the statutory requirement that each parcel seeking agricultural classification must independently satisfy § 193.461.

2. **Hearing Procedures and Cross-Examination – Rule 12D-9.025, F.A.C.** Subsection (5) provides that when testimony is presented, each party has the right to cross-examine witnesses. Subsection (7)(b) authorizes the board or SM to ask questions of either party or any witness but requires neutrality and prohibits showing bias.

These rules do not require that cross-examination be conducted in any particular format (e.g., direct questioning by a party without intermediation). The SM may reasonably regulate the mode and order of interrogation to maintain order, relevance, and fairness, so long as the party is afforded a meaningful opportunity to pose questions and challenge testimony.

V. Analysis of Issues Raised in the RFR

A. Cross-Examination and Hearing Conduct

The RFR asserts that the SM violated Rule 12D-9.025 by directing the PET to pose questions to the SM, who would then decide which questions to put to the PAO. The hearing transcript, however, shows that:

- The SM opened by explaining that both parties would have "an equal opportunity to present their case" and by describing her role as an independent decision-maker.

- The PAO presented its case first, including property record information, the agricultural application, lease documents, multiple on-site inspection photographs, and several sets of oblique aerials around the January 1 assessment date.

- The PET was then given a substantial opportunity to respond, to explain its rotational grazing practices, to address the PAO's inspections and photographs, and to raise concerns about perceived inconsistencies or omissions. The transcript reflects multiple questions and challenges from the PET to the PAO's evidence and practices during the hearing, with the SM intervening primarily to maintain structure, clarify questions, and move the discussion through the statutory factors.

It is common and procedurally proper in quasi-judicial hearings for the SM to control the flow of questioning by directing parties to route questions through the SM, particularly where a self-represented petitioner is involved and tempers or rhetoric run high. The key due process question is whether the PET was substantially prevented from cross-examining the PAO's witnesses or from challenging their testimony.

Here, the transcript indicates that:

- The PAO's representative described in detail the number and dates of inspections and aerials and the presence/absence of cattle and infrastructure.
- The PET challenged those points on the record, including assertions about rotational grazing, timing of cattle presence, and maintenance activities.
- The SM allowed the PET to ask a series of questions, to demand clarification, and to state on the record where it disagreed with the PAO's conclusions.

Although the PET plainly disagrees with the SM's management of the hearing and may have preferred a more open-ended cross-examination, the record does not show that the PET was denied a meaningful right to cross-examine the PAO or to challenge its evidence. The fact that not every question the petitioner wanted answered was asked or answered, or that the SM filtered questions for relevance, does not constitute a violation of Rule 12D-9.025 or due process.

Accordingly, no basis for reconsideration is found on this ground.

B. Time Allocation and Opportunity to Present the Case

The PET asserts that it requested at least one hour for its presentation but received only "19 minutes," based on a third-party observer's comment. The transcript reflects:

- The SM initially noted that approximately three and a half hours had been set aside for Petitions 2025-00035 and 2025-00062, or roughly 1.5 hours per petition, and emphasized that she would try to keep the proceedings on track so that both parties had an equal opportunity to present their cases.
- The recorded hearing runs for over 50 minutes and contains substantial dialogue by the PET, including narrative explanations, questions, and argument about both the RGP parcel and the PET's broader operations.

Even assuming that the PET did not receive the full hour of uninterrupted presentation time it preferred, there is no legal authority requiring a specific minimum number of minutes for a petitioner's presentation. The requirement is that the petitioner receive a reasonable opportunity to present evidence and argument; the transcript shows that the PET was allowed to present extensive factual assertions, describe its grazing system, challenge the PAO's inspections, and discuss statutes and BMPs at length.

On this record, there is no showing that any time limitation materially prevented the PET from introducing key evidence or argument necessary to meet its burden of proof under § 193.461. This is therefore not a basis for reconsideration.

C. Application of § 193.461 – Size, Use, and Alleged "Five-Acre" Minimum

The PET contends that the SM violated § 193.461(3)(b)1.d by accepting or imposing a "five-acre minimum" for agricultural classification. However, the PAO's testimony at the hearing, as reflected in the transcript, specifically tracks the statutory language:

- The PAO's representative expressly referenced the statutory factor "size, as it relates to specific agricultural use, but a minimum acreage may not be required," and
- Then applied that factor to the subject RGP, noting that approximately 3.29 acres were actually available for grazing cattle and explaining, with reference to industry sources, that a typical cow-calf operation requires roughly one to two acres per grazing beef cow.

In other words, the PAO did not present a per se minimum acreage rule; it presented an analysis of whether the actual number of acres and the observed intensity of use were sufficient to support the claimed use (a rotational cow-calf grazing operation) as of January 1. The SM's recommended decision, as described in and consistent with the transcript, evaluated parcel size in relation to the specific use and the observed intensity of that use, which is precisely what § 193.461(3)(b)1.d authorizes.

The PET's characterization of this as an "illegal five-acre minimum" is therefore a disagreement with the weight the PAO and the SM gave to size and intensity, not evidence of a per se minimum acreage requirement or legal error. Re-weighing that evidence is beyond the proper scope of reconsideration.

D. Right to Farm Act and § 163.3162

The PET relies heavily on § 823.14 (the Right to Farm Act) and § 163.3162, arguing that the PET is a long-established agricultural operation in Orange County, the RGP is an integral part of that larger operation, and local entities (including the PAO and VAB) cannot deny or interfere with this use.

While those statutes do protect bona fide farms from certain types of local regulation and nuisance actions, they do not eliminate the requirement that each parcel seeking agricultural classification must independently qualify under § 193.461 as of January 1. The SM's role is not to adjudicate nuisance or zoning preemption issues under § 823.14 or § 163.3162, but to determine, on the evidence, whether the subject parcel's use meets the statutory criteria for agricultural classification.

The transcript shows that the PAO and the SM did consider the intensity and continuity of cattle presence, the extent of improvements, and the actual grazing capacity of the parcel relative to the claimed use. Those are appropriate factors under § 193.461. The PET's dispute is fundamentally with the conclusion drawn from those facts, not with the legal standard applied.

The RFR does not demonstrate that the SM ignored or misapplied these statutes in a way that would change the outcome; rather, it expresses the PET's disagreement with the SM's judgment and the scope of the SM's jurisdiction.

E. The PET's Status as an Established Agricultural Operation

The PET emphasizes that it has multiple parcels already classified as agricultural in Orange County and argues that this should control the outcome for the RGP. While the PET's broader history and operation are relevant context, § 193.461 requires a parcel-specific determination.

The transcript reflects that the SM allowed the PET to describe its overall operations and to argue that the RGP is an integral component of a larger system of pastures and improvements. Nonetheless, the SM is obligated to determine whether this specific parcel, as of January 1, was being used in a bona fide agricultural manner with sufficient intensity, continuity, and commercial purpose.

The fact that the PET is a long-established agricultural enterprise does not compel classification of every parcel it leases or owns. The PET's status is a supporting fact, not a dispositive one. There is no error of law in the SM's refusal to accept the PET's overall operating history as determinative.

F. Alleged "Evidence Suppression" – Photographs and Inspections

The PET contends that the PAO engaged in "evidence suppression" by presenting photos that show no cattle on the RGP and omitting other photos allegedly showing cattle. The hearing record, however, shows that:

- The PAO's evidence packet included a site inspection with photos showing cattle on the property on at least one occasion, as well as multiple subsequent inspections and aerials where no cattle were observed.

- The PAO explicitly acknowledged seeing cattle at one inspection and explained its concern that, over multiple inspections and aerials around the assessment date and in prior years, cattle presence was intermittent or absent, and that the property otherwise appeared largely residential in character.

- The PET was fully able to cross-reference and challenge the PAO's photographs and inspections, to describe what it believed the photos did not show, and to explain rotational grazing patterns and timing.

If the PET believed additional photos showing cattle were necessary, it was free to submit its own photographs or to identify and introduce additional images at the hearing. The RFR does not show that the PAO withheld photographs that were properly requested, ordered, or admitted but omitted from the record. The dispute is about the inferences to be drawn from the images and inspections, not about their admissibility or availability.

This is a classic evidentiary weight issue, not a procedural error justifying reconsideration.

G. Requested Remedy – New Hearing and Pre-Hearing Written Answers

Finally, the PET requests a completely new hearing on Petition 2025-00035, with:

- The same SM;

- No new evidentiary submissions other than the RFR itself;

- At least one hour reserved for the PET; and
- A requirement that the PAO provide written answers to the PET's July 2024 questions at least ten days prior to the new hearing.

There is no authority in Chapter 12D-9, F.A.C., or the governing statutes that obligates VAB to order a new hearing under these circumstances or to compel the PAO to respond to extra-record written interrogatories as a condition of proceeding. The PET's broader dissatisfaction with the PAO's communications and practices may be a matter for other forums, but it does not establish a procedural or legal error in this particular VAB proceeding sufficient to warrant a rehearing.

VI. Conclusion and Recommendation

After reviewing the RFR, the hearing transcript, and the record of the original hearing, the following conclusions are reached:

1. The PET has not demonstrated that the SM violated Rule 12D-9.025, F.A.C., or denied the PET due process. The SM controlled the mode and order of questioning in a manner consistent with her authority, while affording the PET substantial opportunity to present evidence and challenge the PAO's testimony.
2. The record does not support the PET's assertion that a "minimum acreage" rule was applied in violation of § 193.461(3)(b)1.d, Fla. Stat. The PAO's analysis and the SM's evaluation were grounded in parcel size in relation to the claimed use and carrying capacity, which § 193.461 expressly authorizes.
3. The Right to Farm Act and § 163.3162, Fla. Stat., do not displace the requirement that each parcel independently qualify for agricultural classification under § 193.461. The SM properly focused on the statutory agricultural factors as to this parcel.
4. The PET's status as a long-established agricultural operation and the existence of other the PET-classified parcels in Orange County were considered but are not dispositive. The SM was entitled to decide that the subject parcel's use and intensity did not meet the standard for classification as of January 1.
5. Allegations of "evidence suppression" are, on this record, disagreements about the completeness and weight of photos and inspections, not proof of procedural error. The PET had ample opportunity to challenge the PAO's images and present its own.
6. The remedy requested—an entirely new hearing with additional conditions imposed on the PAO—exceeds the scope of reconsideration and is unsupported by controlling law.

Accordingly, it is my opinion that the Request for Reconsideration in Petition No. 2025-00035 should be denied, and the Special Magistrate's recommended decision should remain in effect.