

# TROPICAL AUDUBON SOCIETY

SOUTH FLORIDA'S VOICE OF CONSERVATION



## **For Immediate Release**

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## **Tropical Audubon Asks Court to Reverse Governor & Cabinet's SR-836 Order— a decision that would pave the way for proposed Miami-Dade County Tollway to bisect Everglades Wetlands, threaten Wildlife & endanger our region's Water Security**

**MIAMI, Fla.** — Tropical Audubon Society has filed its Initial Brief in its appeal to Florida's Third District Court of Appeal seeking to overturn a vote by Governor Ron DeSantis and the Florida Cabinet (the Cabinet) to approve a new highway that threatens Everglades Restoration and risks Miami-Dade County drinking water security.

The Cabinet's September 22, 2021, vote (Attorney General Ashley Moody, and Chief Financial Officer Jimmy Patronis joined the Governor in approving the highway; Agricultural and Consumer Services Commissioner Nikki Fried dissented) reversed a judge's factual and legal rulings, and if unopposed, would pave the way for Miami-Dade Expressway Authority's (MDC) proposed extension of the 836 Tollway. If built, the tollway extension would breach the county's Urban Development Boundary (UDB) and intrude into Everglades Wetlands and the County's West Wellfield from which the County draws drinking water.

The Governor and Cabinet's decision, if upheld, would be a huge loss for MDC residents, would risk our region's drinking water supply, jeopardize Everglades Restoration and threaten crucial habitat for birds and other wildlife. It would deepen our community's dependence on single-vehicle commutes, and create insurmountable pressure for more development in West Kendall. According to MDX's own data, the new highway, if built, would more than double the congestion on the existing segment of SR 836. Despite these demonstrably adverse impacts, the Cabinet rejected Administrative Law Judge (ALJ) Suzanne Van Wyk's March 2020 well-reasoned decision that the proposed 14-mile, 6-lane toll road violates state planning law. MDC's sole justification for the tollway extension — that it would improve congestion — was flatly rejected by the judge based on the evidence, which showed only "meager" positive traffic impacts in some locations, and worse traffic on the existing highway if the tollway is built.

The Cabinet's inexplicable decision was a shock to Tropical Audubon Society (TAS) and co-petitioner Michelle Garcia, who joined in opposing Miami-Dade Expressway Authority's plan for the tollway>>



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extension as it is inconsistent with state land use planning laws and the County's very own land use plan.

Today's brief filed by TAS and Garcia focuses on the fact that the Cabinet's decision violated the law by improperly rewriting or deleting every disputed material finding of fact made by the ALJ, all of which was supported by competent, substantial evidence.

Specifically, the Cabinet's Final Order inappropriately rejected factual findings that the tollway: a) violated the Comprehensive Development Master Plan's (CDMP) drinking water wellfield protection policies; b) violates the CDMP's wetland protection policies; c) is inconsistent with the CDMP's UDB and infrastructure policies; and d) will not provide any meaningful relief from traffic congestion.

Further, the Final Order improperly reversed the ALJ's findings that the County failed to properly analyze the tollway's impact on Everglades wetlands and restoration. The Final Order also improperly rejected the ALJ's findings that the data showing meager to non-existent traffic improvements does not support the claimed purpose of the highway.

**Attorney Richard Grosso, of Plantation**, one of TAS's and Garcia's lawyers in the case, explains, "The Governor and Cabinet's decision was a blatant substitution of the facts for a desired political outcome. The actual facts found by the law judge after subjecting the County's claims to cross-examination and judicial scrutiny should stand. Although the law judge found the evidence refuted the County's claims, and found its witnesses' explanations lacked credibility, the Cabinet ignored her thorough judgment."

**Attorney Paul Schwiep**, of the Coffey Burlington firm in Coconut Grove, also representing the Petitioners, said: "The Governor and Cabinet's decision rejects the findings of a judge, who, after a ten-day trial, found that this \$1 billion dollar boondoggle would provide no more than six minutes total savings on commutes from West Kendall to downtown Miami. This new tollway will double traffic on SR-836, make life miserable for commuters who use SR-836, jeopardize the County's drinking water supply, harm Everglades restoration, destroy hundreds of acres of farmland, cost over \$1 billion dollars of tollpayer dollars, all for a meager six minutes. The decision should be reversed."

TAS's and Garcia's opposition to the proposed SR-836 extension is central to the TAS Mission: Conserve and restore South Florida ecosystems, focusing on birds, other wildlife and their habitats. The proposed \$1 billion tollway extension, if built, would: threaten the Bird Drive Basin, a component of the Comprehensive Everglades Restoration Plan (CERP); increase the cost of and timeline for completing other Everglades Restoration projects; remove a key area needed for drinking water supply recharge; and stress wildlife, including endangered and threatened species who forage, or likely forage, in these protected wetlands — species such as Wood Stork, Snail Kite, Cape Sable Seaside Sparrow, Florida Bonneted Bat and Eastern Indigo Snake. >>

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**Tropical Audubon Society President José Francisco Barros** observed: “As South Florida’s Voice of Conservation, filing this appeal, honors Tropical Audubon Society’s legacy of protecting wetlands habitat that birds and other wildlife rely on, and safe-guarding clean drinking water that Miami-Dade County residents rely on. The Cabinet’s order defies the county’s CDMP and the state’s Everglades Restoration plans. If upheld, it would be a huge loss for our county’s wildlife and human residents.”

Michelle Garcia, who joined TAS in the legal challenge, noted: “The data shows that this tollway will not accomplish the much-needed goal of alleviating traffic for the West Kendall community, but rather increase traffic, noise and congestion near our homes. More residents would benefit from modern SMART transit options. The \$1 billion dollars would be better spent on mass transit.”

For the sake of MDC residents and quality of life, we are confident that the Court will consider the records at hand and put an end to this boondoggle.

**For media inquiries, contact:**

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**TROPICAL AUDUBON SOCIETY MISSION:**

To conserve and restore South Florida ecosystems,  
focusing on birds, other wildlife and their habitats.

*Tropical Audubon Society facilitates its Mission via Conservation, Education & Recreation*