

TROPICAL AUDUBON SOCIETY

SOUTH FLORIDA'S VOICE OF CONSERVATION



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Tropical Audubon will Challenge Governor & Cabinet's SR-836 Extension Order

Tallahassee Order paves way for proposed MDC Tollway to bisect Everglades Wetlands, threaten Wildlife & endanger our Water Security

MIAMI, Fla. — Tropical Audubon Society intends to challenge today's disappointing decision by the Florida Cabinet and Governor Ron DeSantis to threaten Everglades Restoration and risk Miami-Dade County water security. The June 15, 2021, vote flouted a law judge's factual and legal rulings and recommendation and paves the way for Miami-Dade County's (MDC) proposed SR- 836 extension. If built, the tollway extension would breach the county's Urban Development Boundary (UDB) and intrude into Everglades Wetlands. Tropical Audubon Society will appeal this misguided action.

The decision, if upheld, would be a huge loss for Miami-Dade County residents, our drinking water supply, Everglades Restoration and crucial habitat for birds and other wildlife. Despite these adverse impacts, the Governor and Cabinet rejected Administrative Law Judge (ALJ) Suzanne Van Wyk's March 2020 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 law makes those findings binding on the Governor and Cabinet, which, for some reason, simply voted to ignore them," says the petitioners' lawyer Richard Grosso. He added, "The proposed tollway violates the county's own adopted policies against building new highways outside of its urban boundary and through the Everglades and farms," and vowed to appeal the decision.

The Cabinet's decision came as a shock to Tropical Audubon Society (TAS) and co-petitioner MDC resident Michelle Garcia, who joined in opposing Miami-Dade Expressway Authority's plan for the tollway extension as inconsistent with state land use planning laws and the county's own land use plan.



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“Because the Governor has been such an outspoken champion of Everglades Restoration, the ruling really came as a big surprise,” says Tropical Audubon Society Executive Director Paola Ferreira. “This reckless decision is inconsistent with Miami-Dade County’s planning laws, and the funding, time, and significant efforts invested in Everglades Restoration by the Federal Government, the State of Florida and Miami-Dade County. Putting the county’s water security on the line is also careless.”

TAS 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 project, 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 the Florida Panther, Wood Stork, Snail Kite, Cape Sable Seaside Sparrow, Florida Bonneted Bat and Eastern Indigo Snake.

To mount a conservation effort of this scope, TAS formed a coalition of like-minded organizations that included Audubon Florida, Friends of the Everglades, Hold the Line Coalition and 1000 Friends of Florida, each of whom provided TAS with substantial support. Nor could TAS launch an appeal without the extraordinary help of its formidable attorneys Richard Grosso and Paul Schwiep.

Tropical Audubon Society President José Francisco Barros observed: “The Governor and Cabinet’s order is a devastating loss for county residents and wetlands habitat that birds and other wildlife rely on. Not to mention, the order defies Miami-Dade County’s Comprehensive Development Master Plan and contradicts the state’s Everglades Restoration plans.”

Attorney Paul Schwiep, of the Coffey Burlington firm in Coconut Grove, also representing the Petitioners, said: “Today’s ruling 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. If built, the tollway will double traffic on SR-836 and make life miserable for commuters who use SR-836. Meanwhile, the tollway jeopardizes Everglades restoration, imperils the West Wellfield, destroys hundreds of acres of farmland, will cost over \$1 billion dollars, all for six minutes. We will appeal.”

Resident Michelle Garcia, who lives in the area near the proposed new toll road, noted: “It is important to alleviate traffic for West Kendall residents, but the data does not support that this 14-mile tollway would accomplish that goal. We need 21st-century transit options! All this road would do for anyone who lives close to it is increase traffic, noise and congestion near to our homes. I’d like to see our leaders pivot, focus on real solutions to traffic in my area and make decisions based on



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science for the benefit of all the residents of Miami-Dade County. The \$1 billion dollars that would have been spent on this road should be spent on modern, mass transit.”

Laura Reynolds representing the Hold the Line Coalition and Friends of the Everglades says: “We are proud to be part of the team that has worked to protect the public interest and the Everglades, but we are disappointed that the State did not exhibit more Everglades leadership today. The Governor had the opportunity to stand up to protect the State, Federal and Local investments in conservation land purchases for Everglades Restoration. He failed to do that, and instead has kicked the can down the road, knowing the proposal is flawed. Just funding projects is not enough — we also need to protect our 35-year investment and that means enforcing the law, funding environmental departments, empowering them to stand by the science and in this case upholding the judge’s ruling.”

Background Information:

The Governor and Cabinet’s Order rejects the Administrative Law Judge’s ruling that the proposed changes to the county’s comprehensive plan to allow the tollway violates the law.

The Administrative Law Judge ruled that proposed changes violate the law because:

- Placing the tollway outside of the UDB is inconsistent with the purpose of the UDB, and the overarching intent of the Plan to achieve a compact urban development form while protecting natural resources and agriculture by discouraging urban infrastructure outside the UDB.
- The tollway will traverse the Pennsuco wetlands, which are protected under the CDMP.
- The Plan Amendment is inconsistent with the County’s requirement to protect the Pensucco wetlands, an area designated as critical habitat for the threatened and endangered species.
- The county has not demonstrated that the tollway is consistent with Everglades Restoration; it inappropriately adopted the tollway amendment despite the South Florida Water Management District determination that consistency with Everglades Restoration had not been proven.
- The new tollway will not ease congestion. The Judge found: “Not only does the data reveal that the improvements in West Kendall congestion would be ... ‘meager,’ ...they provide no

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support for a finding that the Plan Amendment will ... improve the commute time to downtown and other employment centers.”

- The study on which the county relied claimed the tollway will improve commute times to the airport and other employment center does not prove any such benefit.
- The tollway would actually worsen traffic congestion on SR-836, and “commuters will drive 13 miles, outside of the UDB, through active agricultural lands, through environmentally sensitive lands, and through the West Wellfield, only to connect with the existing expressway operating at [a level of service] lower than it operates at today.”
- The tollway violates the county policy to “shift the travel mode” in this part of the county “from single occupancy vehicle to mass transit.”
- No data or analysis supports that the mass transit option to be located alongside the corridor would be used.
- The Administrative Law Judge found that the new tollway “creates a risk of contamination to the wellfield” and that the plan amendment violates the county’s requirement to “protect and enhance” wellfields.

The Administrative Law Judge’s ruling recommended that Florida Governor Ron DeSantis and the Florida Cabinet issue a final order ruling that the tollway proposal violates state planning law.

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