



June 3, 2021

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Dear Ms. Mills, Ms. Hinzman, and Ms. Goff,

On behalf of the Conservancy of Southwest Florida and our more than 6,400 supporting families, and on behalf of the Center for Biological Diversity and its more than 95,000 members and online activists in Florida, we are providing comment on Bellmar development, permit application #396364-001. We oppose this project and are asking for you to deny the request for a Section 404 permit because it will have unacceptable direct, indirect, and cumulative impacts on endangered and threatened species, wetlands, and other natural resources. Indeed, this controversial project is located approximately a mile away from an established national wildlife refuge and is within a flowway and key wildlife corridor.

Most critically, the development project would destroy approximately 1,500 acres¹ of Florida panther habitat essential to its survival and recovery. Bellmar would fragment one of only two north-south corridors for the species that is essential to maintaining panther movement at the population level. The project also threatens the ecological integrity of the Florida Panther National Wildlife Refuge (FPNWR) and its 26,000+ acres.

These effects were not contemplated in the existing Biological Opinion for the state 404 program, and that Biological Opinion cannot provide ‘take’ coverage for this project, should it be permitted by FDEP. Furthermore, the project poses jeopardy to the Florida panther, and FDEP cannot permit projects that would result in jeopardy to a listed species.

For these reasons, and the reasons below, we ask that you deny this project. Should this project advance in the process, we ask that FDEP hold a public meeting within the public notice period.

Project Summary

The project site includes 5,105.49 acres in eastern Collier County, and the applicant plans to construct a master planned community on approximately 1,500 acres of that land. The application states:

“The Bellmar project (Project) is a proposed innovative, master-planned community in eastern Collier County, Florida. The Project is designed to feature the preservation of valuable wetlands and wildlife habitat, while concentrating development of the community within areas that are already in active use by large-scale agricultural operations in accordance with federal, state, and local conservation initiatives.”²

Bellmar is not innovative. It is a typical planned unit development found throughout Florida. However, it is sited in one of the most problematic areas because of the significant environmental resources that are at risk. Bellmar, along with other individual permits that FDEP is also currently reviewing, would transform a currently rural and agricultural landscape into an urban area accommodating 16,000 new residents, with about 5,000 new residents accommodated in Bellmar.

While the applicant attempts to justify the development as acceptable due to its siting within agricultural lands, these lands have been identified by best available science³ as critical to the Florida panther. These lands also support a myriad of other listed species, as discussed below.

¹ We say approximately because there are differing acreages provided throughout the application as to how much land is going to be placed under conservation easement or preserved. South Florida Water Management District Application #201005-4401 lists the acres impacted for calculation of panther credits as 1,793.4 acres.

² Bellmar Environmental Supplement for US Army Corps of Engineers Section 404 Permit, December 2020. Prepared for Collier Enterprises, Prepared by Passarella & Associates, Inc.

³ Kautz, R. et al, How much is enough? Landscape-scale conservation for the Florida panther, BIOLOGICAL CONSERVATION 130 (2006) 118 – 133 and Frakes RA, Belden RC, Wood BE, James FE (2015) Landscape

The project would result in more than 132 acres of wetland impacts, which should be avoided and minimized. Converting agricultural lands to urban uses could impact water resource issues upstream of the public lands like the FPNWR, Fakahatchee Strand Preserve State Park, and Picayune Strand State Forest.

The project falls within a WBID (water body identification number) that is considered impaired and not meeting water quality standards.⁴ The project would discharge stormwater upstream of Outstanding Florida Waters (OFWs) which should not be degraded. The state has not yet granted the water quality certification, and the South Florida Water Management District has raised questions about how this project would impact floodplain storage compensation and discharge rates and requested further reduction/elimination of wetland impacts.⁵

Habitat/Listed Species issues

The Bellmar site provides habitat for a multitude of state and federally listed species, many of which have been documented on the site. According to the state rules governing state 404 permitting, FDEP shall not issue a permit for a project that:

[j]eopardizes the continued existence of endangered or threatened species, or results in the likelihood of the destruction or adverse modification of a habitat which is determined by the Secretary of Interior or Commerce, as appropriate, to be a critical habitat for endangered or threatened species”⁶

The rules also stipulate that permits cannot cause:

[s]ignificant adverse effects on aquatic ecosystem diversity, productivity, and stability. Such effects may include, but are not limited to, loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate nutrients, purify water, or reduce wave energy; ...or [s]ignificant adverse effects on recreational, aesthetic, and economic values.⁷

The Bellmar project will result in ‘take’ of listed species due to loss of habitat, fragmentation of corridors from the developments and roadway network, increased traffic on new and existing roads, loss of prey and other disruptions to life cycle needs, and increased presence of human populations. These threats likely rise to the level of jeopardy for species like the Florida panther

Analysis of Adult Florida Panther Habitat. PLoS ONE 10(7): e0133044.
<https://doi.org/10.1371/journal.pone.0133044>.

⁴ Florida Department of Environmental Protection, 2020. Impaired Waters, TMDLs, and Basin Management Action Plans Interactive Map. Last modified July 29, 2020. Accessed at <https://floridadep.gov/dear/water-quality-restoration/content/impaired-waters-tmdls-and-basin-management-action-plans>.

⁵ South Florida Water Management District, 2021. Letter from South Florida Water Management District to the applicant regarding Bellmar dated March 19, 2021.

⁶ Fla. Admin. Code Ann. r. 62-331.053(3)(a)4. (Additional Conditions for Issuance of Individual Permits).

⁷ *Id.* at r. 62-221.053(3)(a)6.iii–iv.

and contribute to significant adverse effects on aquatic ecosystems and recreational, aesthetic, and economic value in the region.

Florida Panther

Panthers are wide ranging, and require large contiguous areas to meet their social, reproductive, and energetic needs,⁸ a requirement that is being compromised by Bellmar and other nearby developments, which are proposed in the panther's last remaining core habitats.

Habitat loss and fragmentation, and the risk of human-wildlife conflicts, are the greatest threats to the Florida panther. These threats primarily result from rapid population growth and conversion of natural habitats and agricultural lands to urban land use.⁹

The survival and recovery of the Florida panther depends on maintaining, restoring, and expanding the panther population and its habitat in southern Florida.¹⁰ Specifically, the Florida Panther Recovery Plan establishes that the survival and recovery of the Florida panther population is dependent on maintaining the ability of the Primary, Secondary, and Dispersal Zones, as identified by expert panther biologists Kautz et al. (2006)¹¹, to contribute to a viable population.¹² In other words, none of this key habitat should be developed because doing so would render it useless to panthers. Yet one-hundred percent of the Bellmar site is within the Primary Zone habitat, the highest priority area (see Figure A, below). Based on the conclusions of panther experts, including Kautz, et al., the proposed site for Bellmar should not be developed or intensified.

Lands within the Bellmar project site have also been designated as "Adult Breeding Habitat."¹³ Scientists modeled Adult Breeding Habitat for the species and have stated that protecting this remaining breeding habitat in south Florida is essential to the survival and recovery of the Florida panther.¹⁴ Further loss of adult panther breeding habitat is likely to reduce the prospects for survival of the existing population, and decrease the probability of natural expansion of the population into south-central Florida.¹⁵ Seventy-seven percent of the Bellmar site is considered Adult Breeding Habitat (see Figure B).

⁸ US Fish and Wildlife Service, 2008. Florida Panther Recovery Plan. P. viii.

⁹ Kautz, R. et al, How much is enough? Landscape-scale conservation for the Florida panther, BIOLOGICAL CONSERVATION 130 (2006) 118 – 133

¹⁰ US Fish and Wildlife Service, 2008. Florida Panther Recovery Plan, 3rd revision. P. 5.

¹¹ Kautz, R. et al, How much is enough? Landscape-scale conservation for the Florida panther, BIOLOGICAL CONSERVATION 130 (2006) 118 – 133

¹² US Fish and Wildlife Service, 2008. Florida Panther Recovery Plan, 3rd revision.

¹³ Frakes RA, Belden RC, Wood BE, James FE (2015) Landscape Analysis of Adult Florida Panther Habitat. PLoS ONE 10(7): e0133044. <https://doi.org/10.1371/journal.pone.0133044>

¹⁴ *Id.*

¹⁵ *Id.*

In his 2018 report¹⁶, Dr. Robert Frakes reviewed development proposals in eastern Collier County using the same model developed in the Frakes et al 2015 study, and determined that projects along the Camp Keais Strand, like Bellmar (and another pending project before FDEP called “Rural Lands West”) would serve to not only destroy large swaths of critically-important habitat, but also would sever and fragment this panther corridor (see enclosed report and Figure C and D).

Compounding habitat and corridor impacts is the threat of panther-vehicle collisions, a major source of mortality for this species. There have been 351 documented panther deaths within a 25-mile action area radius of the Bellmar site (see Figure E).¹⁷ Of these documented deaths, 232 (66%) are due to vehicle strikes. Development on the Bellmar site, with commercial development and approximately 3,000 homes,¹⁸ will greatly increase vehicle trips resulting in increased risk of panther mortality due to vehicle strikes.

As demonstrated by the best available science regarding the panther and its threats, developing key habitat in the panther Primary Zone and Adult Breeding Habitat, a critical corridor, and increasing panther-vehicle mortalities would likely jeopardize the Florida panther. For this reason, FDEP cannot issue a permit for the Bellmar project.

Other listed species

As shown on the map depicting just a portion of the listed species documented onsite (see Figure F), the Bellmar site contains many state and federally listed species. To-date we have not seen the Florida Fish and Wildlife Conservation Commission (FWC) or U.S. Fish and Wildlife Service Ecological Services comments regarding this project. It does not appear that the applicant has yet submitted the necessary listed species surveys and information to FDEP and the wildlife agencies as part of this application. These surveys and information are critical to analyze the impact of the proposed development on listed species, and the agencies should not finalize review or permitting in their absence.

In the absence of this key information and for the sole purpose of providing these comments, we provide the following summary of listed species surveys submitted by the applicant to Collier County. The surveys which show species on the Bellmar site are from 2008, 2017, 2019 and 2020. These surveys show many listed species present at the project site.

¹⁶ Frakes, 2018. Impacts to Panther Habitat from the Proposed Eastern Collier Multiple Species Habitat Conservation Plan: A Quantitative Analysis. October 7, 2018. Prepared for the Conservancy of Southwest Florida.

¹⁷ Mortality and collision data is from beginning of Florida Fish and Wildlife Conservation Commission record keeping through January 2020.

¹⁸ Collier Enterprises, 2021. Bellmar Village SRA Development Document.

Table: Compilation of birds from four listed species surveys submitted to Collier County as part of the Bellmar SRA Application

Name	Number
Audubon's Crested Caracara	21
Tri Color Heron	3
Snail Kite	1
Sandhill Crane	3
Wood Stork	18
Little Blue Heron	12
Roseate Spoonbill	1
Snowy Egret	2
Big Cypress Fox Squirrel	6

Audubon's Crested Caracara

The caracara is a federally threatened species found in south and south-central Florida.¹⁹ It lives in dry or wet prairies with scattered palms and also uses improved or semi-improved pastures.²⁰ Habitat destruction, degradation, and fragmentation are the primary drivers of caracara declines, though they are also threatened by road mortality, pollutants, and low numbers and genetic isolation.²¹

Surveys of the Bellmar project site have documented 21 crested caracara sightings on the site. In addition to the large number of crested caracara observations within the project boundary, there is also a nest located within the thin strip of proposed preserve area found in the middle of the property.²² The caracara protective buffer zone, an area extended out from the nest location that should be avoided, covers a majority of the proposed development area (see Figure G). Therefore, allowing development in this zone is inappropriate and would threaten the species' survival and recovery.

We cannot stress strongly enough that mitigation should only be an option after avoidance and minimization have been exhausted because caracaras may have difficulty moving to new, undeveloped areas.²³ The caracara is non-migratory, uses its territory year round, and has strong

¹⁹ U.S. Fish and Wildlife Service. 1999. Multi-Species Recovery Plan for South Florida. at 4-219, available at https://ecos.fws.gov/docs/recovery_plan/sfl_msrp/SFL_MSRP_Species.pdf.

²⁰ *Id.* at 4-222

²¹ *Id.* at 4-225.

²² Bellmar Listed Species Survey for Collier Enterprises completed by Passerella and Associates dated October 2020 submitted to the South Florida Water Management District in October 2020 as part of Application # 201005-4401, page 42.

²³ See Morrison, J.L. 2001. Recommended management practices and survey protocols for Audubon's crested caracaras (*Caracara cheriway audubonii*) in Florida. Technical Report No. 18. Florida Fish and Wildlife

nesting site fidelity.²⁴ Although breeding activity can occur from September through June, the primary breeding season is considered November through April.²⁵ Nest initiation and egg-laying peak from December through February. During these most sensitive times of the year, impacts should be avoided within the buffer zone areas. Destroying occupied caracara nesting habitat would cause significant harm to the species by disrupting essential breeding activity. Likewise, the construction and operation of a high-intensity urban development in close proximity to breeding habitat will likely harass caracaras, further disrupting behaviors essential to survival, including breeding, feeding, and resting.

When considering impacts Bellmar will have on caracaras, it is important to remember that caracaras have strong site fidelity.²⁶ Thus, as surveying efforts continue we note that the U.S. Fish and Wildlife Services guidelines state that “a nest should not be considered abandoned until it is not used for three consecutive breeding seasons or no other active nests are found within 0.5 km (0.31 mi) of the nest.”²⁷

Florida Bonneted Bat

The proposed development also threatened to impact the Florida bonneted bat. Florida bonneted bats are different from most other Florida bat species because they are reproductively active through most of the year, and their large size makes them capable of foraging long distances from their roost.²⁸ Consequently, this species is vulnerable to disturbances for a greater distance around the roost during a greater portion of the year.

As part of the review process, the applicant must provide information to the agencies to determine if there are foraging or roosting bonneted bats in the project area. If bats are foraging or roosting on the property, the agencies must put appropriate conservation requirements in place and ensure that permitting Bellmar will not jeopardize the continued existence of the species.²⁹

Additionally, ninety-five percent of the Bellmar site is proposed critical habitat for the Florida bonneted bat (see Figure H).³⁰ The agencies must consider how the project will impact the bat

Conservation Commission, Tallahassee, Florida. P. 4; *see also* U.S. Fish and Wildlife Service. 1999. Multi-Species Recovery Plan for South Florida. at 4-223

²⁴ Morrison, J.L. 2001. Recommended management practices and survey protocols for Audubon’s crested caracaras (*Caracara cheriway audubonii*) in Florida. Technical Report No. 18. Florida Fish and Wildlife Conservation Commission, Tallahassee, Florida. P. 4.

²⁵ US Fish and Wildlife Service, 2004. South Florida Ecological Services Office, Species Conservation Guidelines South Florida, Audubon’s Crested Caracara. April 20, 2004. P. 6.

²⁶ *Id.* P. 1.

²⁷ *Id.* P. 7.

²⁸ Ober, H. 2016. Annual report to USFWS for calendar year 2016. Permit number TE23583B-1. University of Florida, Department of Wildlife Ecology and Conservation, North Florida Research and Education Center. Quincy, Florida.

²⁹ *See* Fla. Admin. Code Ann. r. 62-331.053(3)(a)4.

³⁰ Shapefile provided by US Fish and Wildlife Service. Federal Register, Vol. 85, No. 112, P. 35510. June 10, 2020.

and its proposed critical habitat and whether the project will adversely modify the proposed critical habitat.³¹

Wetland/Water Resource issues

We are also concerned about the Bellmar project's impact on wetlands and water resources. The project proposes to directly destroy 132.23 acres of wetlands and 2.96 acres of other waters (see Figure I and J).

Wetlands are among the most productive ecosystems in the world, and play an integral role in the ecology of watersheds.³² They are vital to the health of the environment because they filter and remove pollutants.³³

The state rules governing section 404 permitting state that FDEP shall not grant a permit “*if there is a practicable alternative to the proposed activity which would have less adverse impact on the aquatic ecosystem.*”³⁴ Accordingly, “[t]he Agency shall require the applicant to submit an alternative analysis.”³⁵ Alternatives should include those that do not involve dredging or filling of state-assumed waters.³⁶ Such an alternative is possible for Bellmar because the applicant is choosing to site their stormwater lakes (what appears to be the bulk of their impacts) into adjacent native and functional wetlands that are a part of the Camp Keais Strand ecosystem. These impacts to wetlands could be redesigned and avoided.

Retaining the spatial extent and function of the wetlands is critical to provide important and necessary conservation benefits. If this project goes forward and is not denied, FDEP should require that the project be altered in such a way that wetlands impacts are avoided. While the narrative the applicant submitted states that alternative site plans were considered, no evidence of those site plans has been provided. We ask that FDEP hold the applicant to the necessary standard of showing that alternative site plans were considered. The alternatives should include the “no project/action alternative.”

Additionally, the project does not appear to meet other conditions for permit issuance that pertain to wetland degradation. The rules governing state section 404 permitting state that permits cannot be granted if the project:

³¹ See Fla. Admin. Code Ann. r. 62-331.053(3)(a)4.

³² EPA. How do Wetlands Function and Why are they Valuable? <https://www.epa.gov/wetlands/how-do-wetlands-function-and-why-are-they-valuable>

³³ University of Florida IFAS, 2018. The Importance of Florida Wetlands. Available at <<http://blogs.ifas.ufl.edu/sarasotaco/2018/05/17/the-importance-of-florida-wetlands/>>. Accessed June 3, 2021.

³⁴ Fla. Admin. Code Ann r. 62-331.053(1) (Additional Conditions for Issuance of Individual permits; Applicant's Handbook 8.3.1.

³⁵ Fla. Admin. Code Ann. r. 62-331.053(1).

³⁶ Fla. Admin. Code Ann r. 62-331.053(1)(a).

[c]auses or contributes to significant degradation of wetlands or other surface waters. Effects contributing to significant degradation considered individually or collectively, include: ...

*Significant adverse effects on aquatic ecosystem diversity, productivity, and stability. Such effects may include, but are not limited to, loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate nutrients, purify water, or reduce wave energy....*³⁷

The project would discharge stormwater upstream of Outstanding Florida Waters (OFWs) and within an impaired WBID. The state has not yet granted the water quality certification, and the South Florida Water Management District has raised questions about how this project would impact floodplain storage compensation and discharge rates, as well as asked for further evidence of adequate reduction/elimination of wetland impacts.³⁸ And as stated above, this project poses numerous adverse effects to wildlife and wildlife habitats.

Cumulative and secondary effects of project

Bellmar will also have significant cumulative and secondary effects on wildlife, wetland, and other environmental resources. The rules governing state 404 permitting require FDEP to consider cumulative and secondary effects of the Bellmar project.³⁹ In the 404 Handbook, cumulative impacts are described as “*the changes in an aquatic ecosystem that are attributable to the collective effect of a number of individual dredge or fill activities.*”⁴⁰ When considering these effects, “*the Agency shall identify resources of concern and determine the potentially effected resource area(s).*”⁴¹ The Handbook goes on to state that “[s]econdary effects are effects on an aquatic ecosystem that are associated with a dredge or fill activity, but do not result from the actual placement of the dredged or fill material.”⁴² FDEP is required complete secondary impact analyses for resources including sanctuaries and refuges, municipal and private water supplies, recreational and commercial fisheries, water-related recreation, aesthetics, parks and preserves.⁴³

There are several pending state 404 program permits in the area of the proposed Bellmar site that would contribute to cumulative impacts (see Figure K). One of those projects, located just north of Bellmar, is called Rural Lands West (application #0396966001) and proposes more than 4,000 acres of impact to Florida panther habitat along the same Camp Keais Strand corridor and

³⁷ Fla. Admin. Code Ann. r. 62-331.053(3)(a)6.

³⁸ South Florida Water Management District, 2021. Letter from South Florida Water Management District to the applicant regarding Bellmar dated March 19, 2021.

³⁹ See Florida Department of Environmental Protection. 2020. State 4040 Program Applicant’s Handbook, at 8.3.5–8.3.6.

⁴⁰ *Id.* at 8.3.5.

⁴¹ *Id.*

⁴² *Id.* at 8.3.6.

⁴³ *Id.*

flowway.⁴⁴ Bellmar proposes adverse secondary effects to the flowway and corridor; cumulatively, Bellmar and these other pending state section 404 applications would significantly and negatively impact listed species habitat and wetlands in this area of Collier County.

FDEP must collect and consider relevant information about these nearby projects during its decision-making process to appropriately consider cumulative impacts.⁴⁵ We note that there are 62 other 404 permit applications submitted within a 5 mile area of this project⁴⁶ (see Figure K). One of those permits is for more than 5,000 homes⁴⁷ (Rural Lands West), while the remainder appear to be single family home permits. Another residential project in the area, Hyde Park, will accommodate 1,800 homes.⁴⁸ It is important to recognize that there are many projects occurring in this area and the cumulative impacts of the addition of nearly 10,000 homes is not insignificant and must be addressed.

FDEP must also consider secondary effects of the Bellmar project, particularly in regard to nearby sanctuaries and refuges.⁴⁹ The application acknowledges that the Camp Keais Strand is located along the eastern boundary of the Project and is a natural, regional cypress slough system that conveys flows from the Corkscrew Swamp and Lake Trafford to the north into the FPNWR and Fakahatchee Strand Preserve State Park to the south (see Figure L).⁵⁰ However, there is little to no discussion about how their shared boundary with the FPNWR (see Figure M) will function, what they are doing to minimize impact to these public lands, or how they are planning to ensure that Florida panthers will not be negatively impacted due to changes and development within the project boundaries.

We also note that the FPNWR requires use of controlled burns to manage their lands for the benefit of deer, panthers, and the dozens of other species that reside there.⁵¹ The FPNWR is more than 26,000 acres in size, a jewel of the Service's Refuge system, and was established in 1989 for the express purpose of providing habitat for the Florida panther.⁵² FPNWR staff have expressed concerns regarding their ability to continue using prescribed fire management if the

⁴⁴ Conservancy of Southwest Florida GIS analysis. Rural Lands West footprint digitized from application materials.

⁴⁵ Florida Department of Environmental Protection. 2020. State 4040 Program Applicant's Handbook, at 8.3.5.

⁴⁶ Conservancy of Southwest Florida GIS analysis. State 404 program applicants shapefile from FDEP, as of June 2020.

⁴⁷ Collier County, 2020. Resolution 20-24 regarding designating Rivergrass Village Stewardship Receiving Area, and Collier County, 2020. Resolution 2021- regarding designating Longwater Village Stewardship District Receiving Area.

⁴⁸ Collier County, 2019. Hyde Park Village SRA, Project Narrative & Statement of Compliance (with SRA Design Criteria), Revised 4-10-2019.

⁴⁹ Florida Department of Environmental Protection. 2020. State 4040 Program Applicant's Handbook, at 8.3.6.

⁵⁰ Passarella & Associates, 2020. Corps permit Application and Preliminary Wetland JD Request, Bellmar. December 16, 2020. P. 10.

⁵¹ US Fish and Wildlife Service, 2021. Letter from US Fish and Wildlife Service, Florida Panther National Wildlife Refuge to Collier County regarding Bellmar dated March 1, 2021.

⁵² Florida Panther National Wildlife Refuge, 2019. About the Refuge. Last updated February 5, 2019. Accessed at https://www.fws.gov/refuge/Florida_Panther/about.html.

Bellmar development is approved and constructed (see enclosed documents).⁵³ We share the Refuge's concerns that Bellmar poses threats to management of the preserve, and that hydrological restoration and large mammal connectivity is needed.

There is no way to allow any development on the Bellmar site while still fulfilling key management needs at FPNWR because smoke would need to blow in the direction of Bellmar - which is only 1.25 miles away. The FPNWR sits at the intersection of two major roadways, Interstate 75 and State Road 29, and the Refuge cannot reasonably blow smoke in those directions because it would cause human safety issues. We have little confidence that even if indemnification or smoke easement language is incorporated into the permits these absolutely critical prescribed burns would be able to continue into perpetuity, since we have already seen resistance from the public to accept use of prescribed burning in more urban areas.

Further, in past communications, the Refuge staff has expressed concerns about Bellmar and other nearby proposed developments (see enclosures).⁵⁴ They have shared numerous secondary and cumulative concerns from concerns about increased stormwater runoff, hydroperiod alterations, degradation of water quality, reduction of panther prey base, wading bird rookery losses, increases of panther mortality due to intraspecific aggression, loss of farm fields used by panthers, increased panther-human interactions, increased wildland urban fire interface, and other cumulative impacts that could jeopardize the biological integrity of the refuge. We also share these concerns.

The 404 Handbook requires that FDEP conduct a secondary impact analysis, particularly when a proposal may impact areas like the FPNWR, sanctuaries, and refuges which may be affected by dredge or fill activities.

5-year time limit

We note that the January 27, 2021 First Request for Additional Information sent by FDEP Item #8 states:

The proposed project appears to contain more work than can be completed within 5 years. State 404 Program permits are limited in duration to 5 years and may contain no more than 5 years-worth of work. If your project is expected to take more than 5 years to complete, please divide the project into 5-year phases and submit information as described in section 5.3.2 of the 404 Handbook – “Long-Term Conceptual Planning for Projects that will Take More Than One Phase to Complete”. If your project will not take more than 5 years to complete, please submit an estimated project schedule and information demonstrating that the project can be completed within 5 years.

⁵³ US Fish and Wildlife Service, 2021. Letter from US Fish and Wildlife Service, Florida Panther National Wildlife Refuge to Collier County regarding Bellmar dated March 1, 2021.

⁵⁴ *Ibid*, and emails and notes from Florida Panther National Wildlife Refuge. Provided to the Conservancy of Southwest Florida through Freedom of Information Act request.

Submittals to Collier County for Bellmar Village indicate that the Village buildout timeframe is 12 years.⁵⁵ Additionally, the portion of the project shown as development in the northwest part of the project site could have no buildout date per a town agreement submitted to Collier County in February 2021, as Collier Enterprises is asking for entitlements for this area to build at a time of their choosing depending on market demands (see enclosed proposed development agreement).⁵⁶

In review of these discrepancies regarding the anticipated timeline for the development and the 5-year limitation of permits, the applicant needs to work with FDEP to ensure compliance with the 404 program requirements.

U.S. Environmental Protection Agency should review and object to the Bellmar proposal

It is our understanding that the U.S. Environmental Protection Agency (EPA) has not waived its review for projects that “have a reasonable potential for affecting endangered or threatened species as determined by USFWS/NMFS.”⁵⁷

As demonstrated above, the Bellmar project has adverse effects to wetland habitats, Florida panther habitat, and the trust resource of the FPNWR. For this reason, the EPA should conduct a thorough review of the Bellmar project, and object to the awarding of a permit.

Conclusion

Thank you for considering our comments and we hope that this will help the agencies thoroughly review the Bellmar project’s irreversible impacts on water resources and listed species in southwest Florida. Critically, these projects may determine the fate of the endangered Florida panther, as they not only destroy essential habitat but also increase threats from vehicle strikes and human-wildlife interaction. They also pose significant threats to trust resources, properties in conservation, and mitigation lands.

Please note that this letter does not constitute support for the state-assumed section 404 permitting program, which we believe is unlawful. However, FDEP, the wildlife agencies, and EPA should use every latitude in the framework to review, require modifications, and in this case object to and deny the Bellmar development.

Sincerely,



Julianne Thomas

⁵⁵ Collier Enterprises Management Inc, 2021. Bellmar Village SRA Development Document. P. 4.

⁵⁶ Town Agreement, page 2.

⁵⁷ Applicant’s Handbook 5.2.5.

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Jeaneanne Gettle, US EPA
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Enclosures:

- Proposed Town Agreement prepared by Collier Enterprises, submitted to Collier County for consideration
- March 19, 2021 letter from South Florida Water Management District to the applicant regarding Bellmar.
- March 1, 2021 letter from U.S. Fish and Wildlife Service, Florida Panther National Wildlife Refuge regarding hydrology, preserve management, and other issues.
- December 3, 2018 letter from Conservancy of Southwest Florida and partners to USFWS regarding the Eastern Collier HCP of which contains the Bellmar property.
- November 28, 2018 report by Dr. Robert Frakes regarding impact of development within the Camp Keais Strand to Florida panthers.
- 2010 emails and notes from US Fish and Wildlife Service, Florida Panther National Wildlife Refuge obtained via Freedom of Information Act request.

Figure A:

Bellmar, Panther Telemetry, & Panther Focus Area

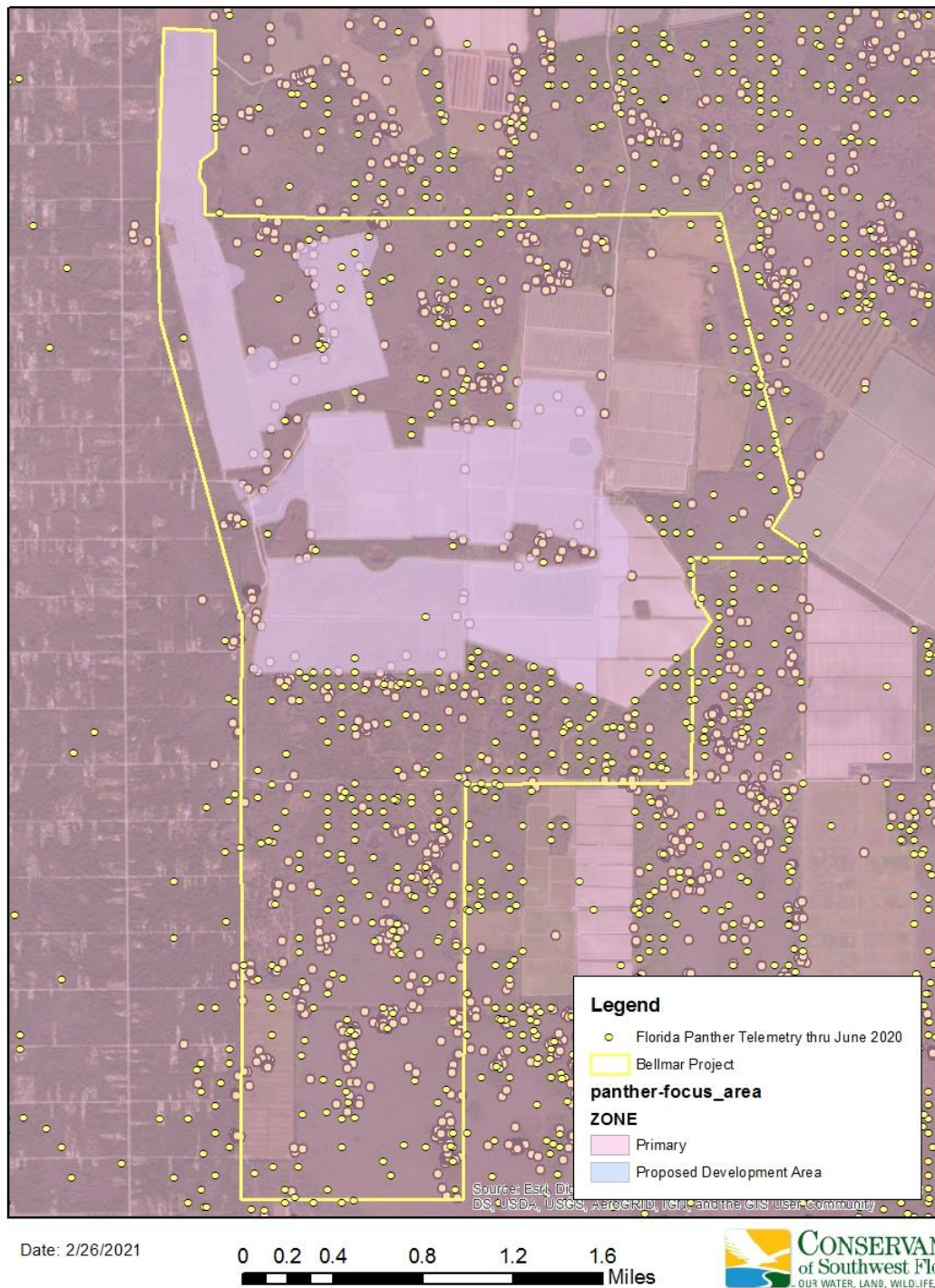


Figure B:

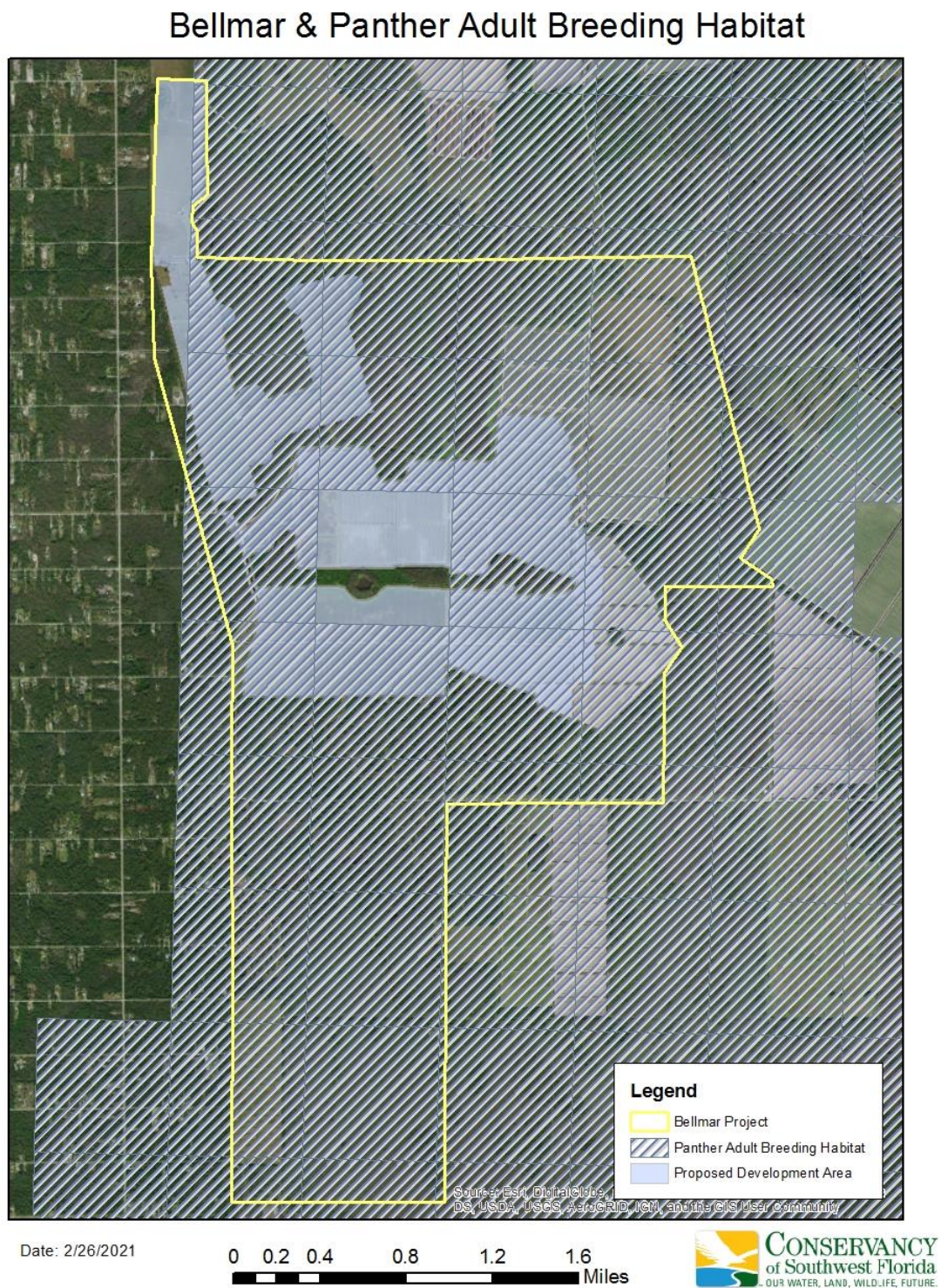
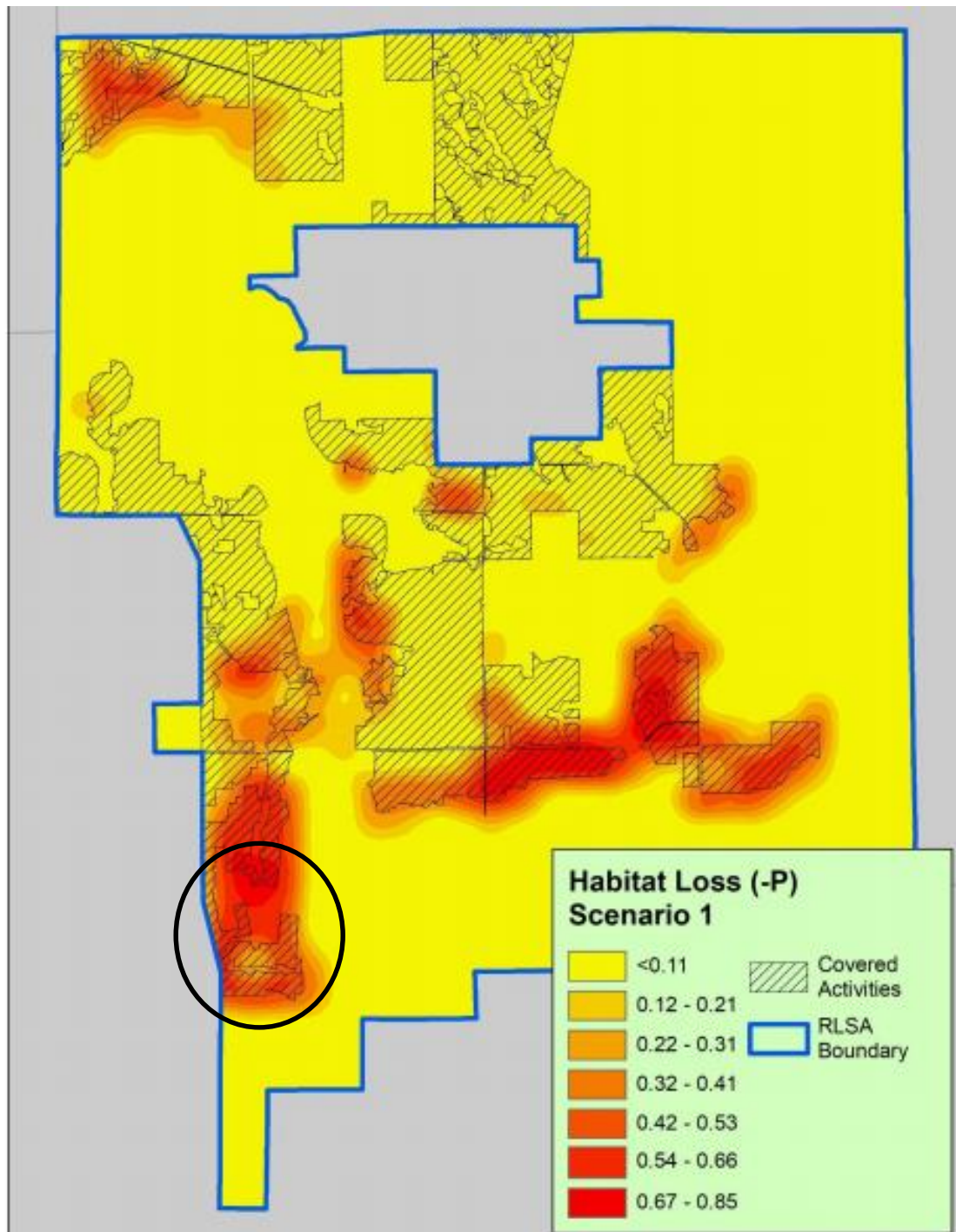


Figure C⁵⁸:

⁵⁸ Frakes, 2018. Impacts to Panther Habitat from the Proposed Eastern Collier Multiple Species Habitat Conservation Plan: A Quantitative Analysis. October 7, 2018. Prepared for the Conservancy of Southwest Florida. Black circle depicting general area of Bellmar.

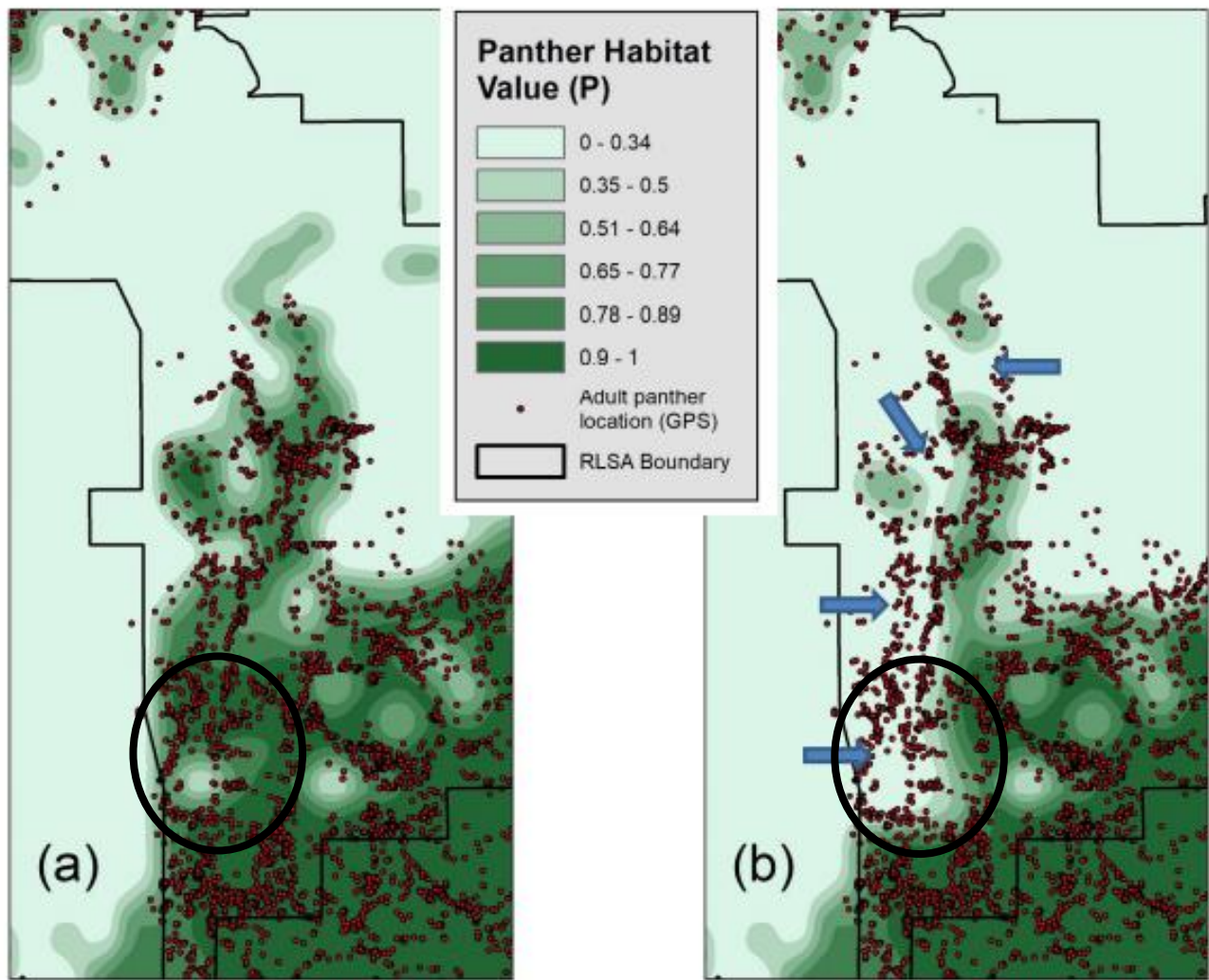
Figure D⁵⁹:

Figure 10. (a) Existing north-south panther habitat connection on the western side of the RLSA, between Florida Panther NWR and Corkscrew Swamp. (b) Model predicted changes after implementation of ECMSHCP (Scenario 1). The pathway that adult panthers use has been broken and substantially narrowed (arrows).

⁵⁹ Frakes, 2018. Impacts to Panther Habitat from the Proposed Eastern Collier Multiple Species Habitat Conservation Plan: A Quantitative Analysis. October 7, 2018. Prepared for the Conservancy of Southwest Florida. Black circle depicting general area of Bellmar.

Figure E:

Bellmar & Managed Lands Proximity w Panther Vehicle Mortality

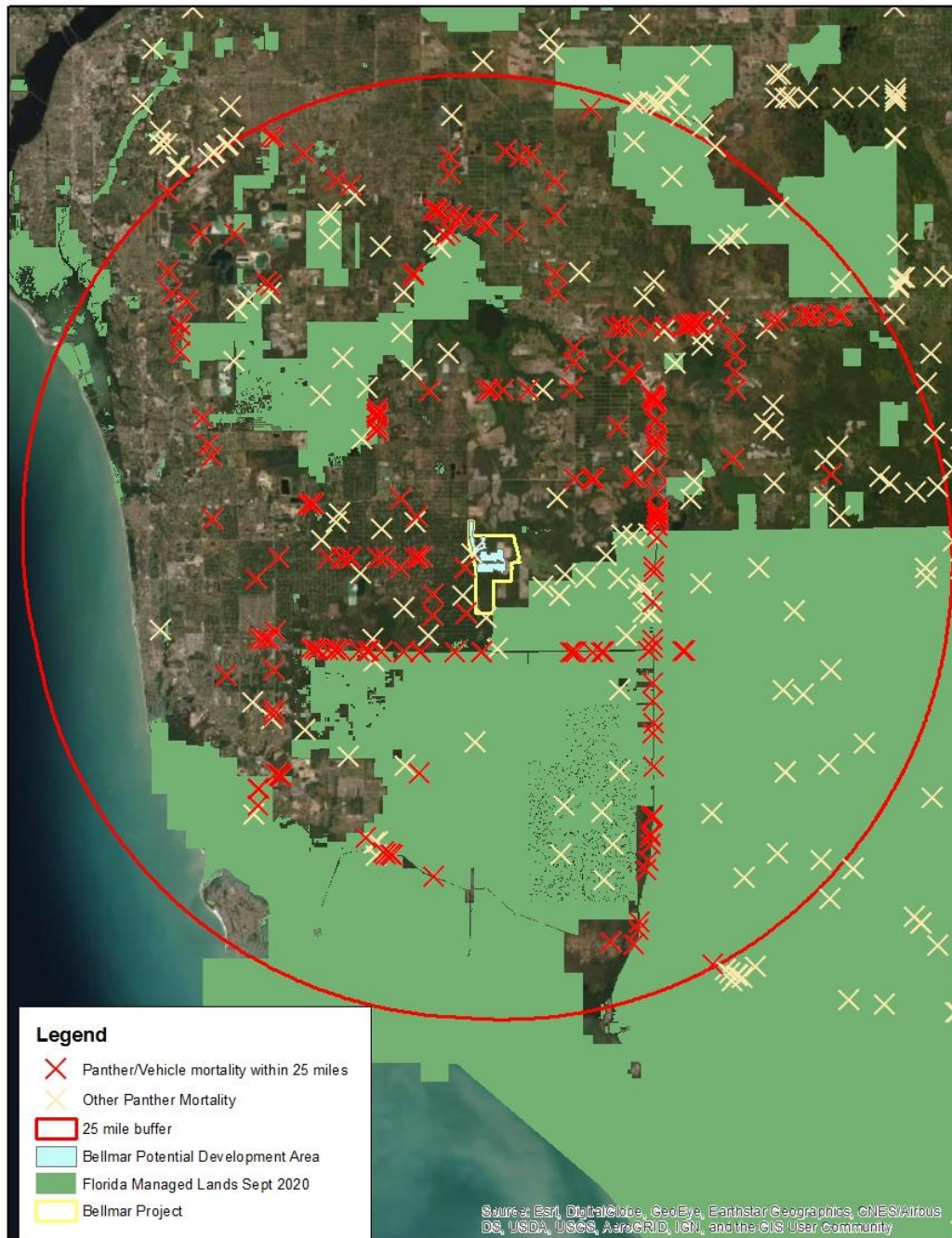
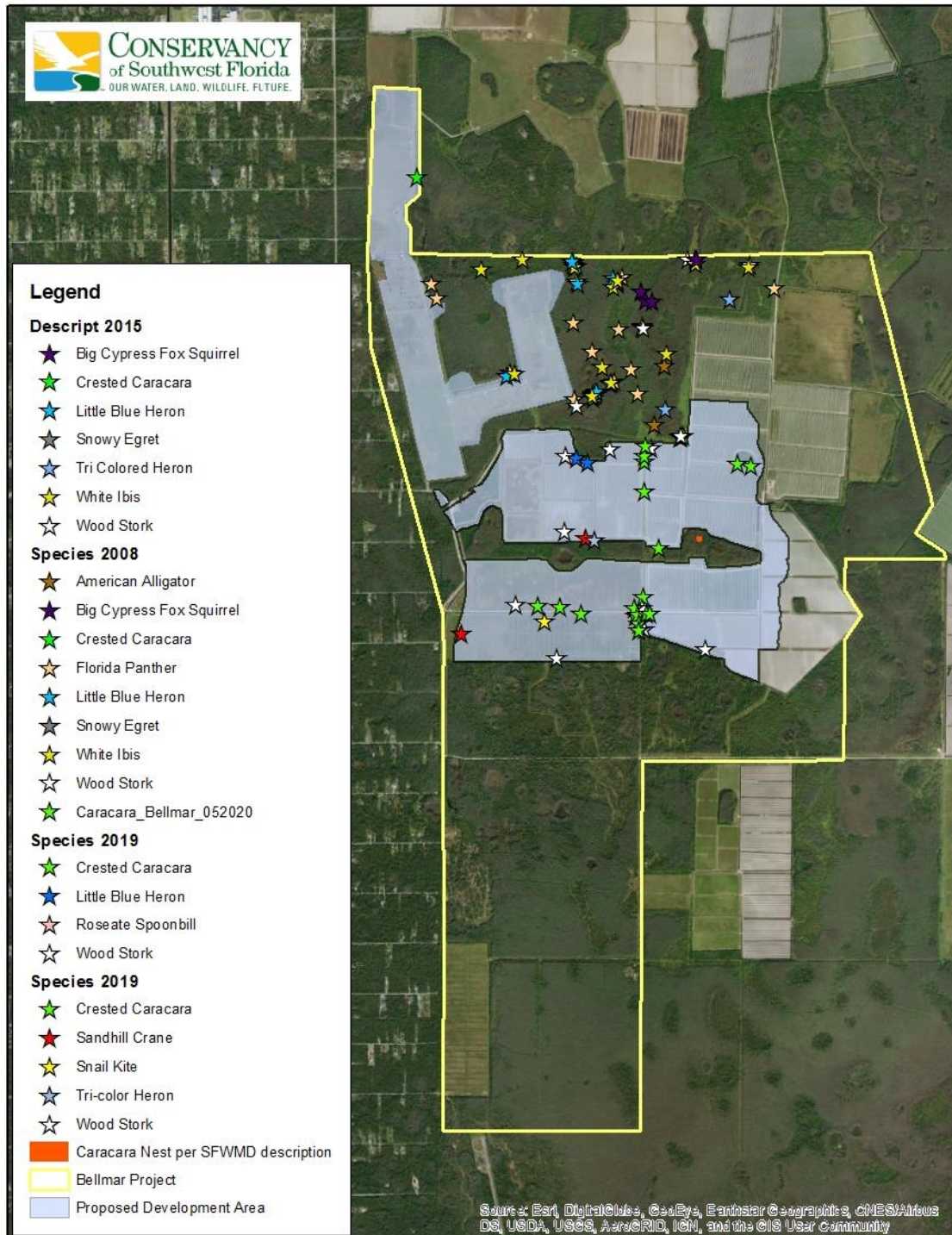


Figure F:

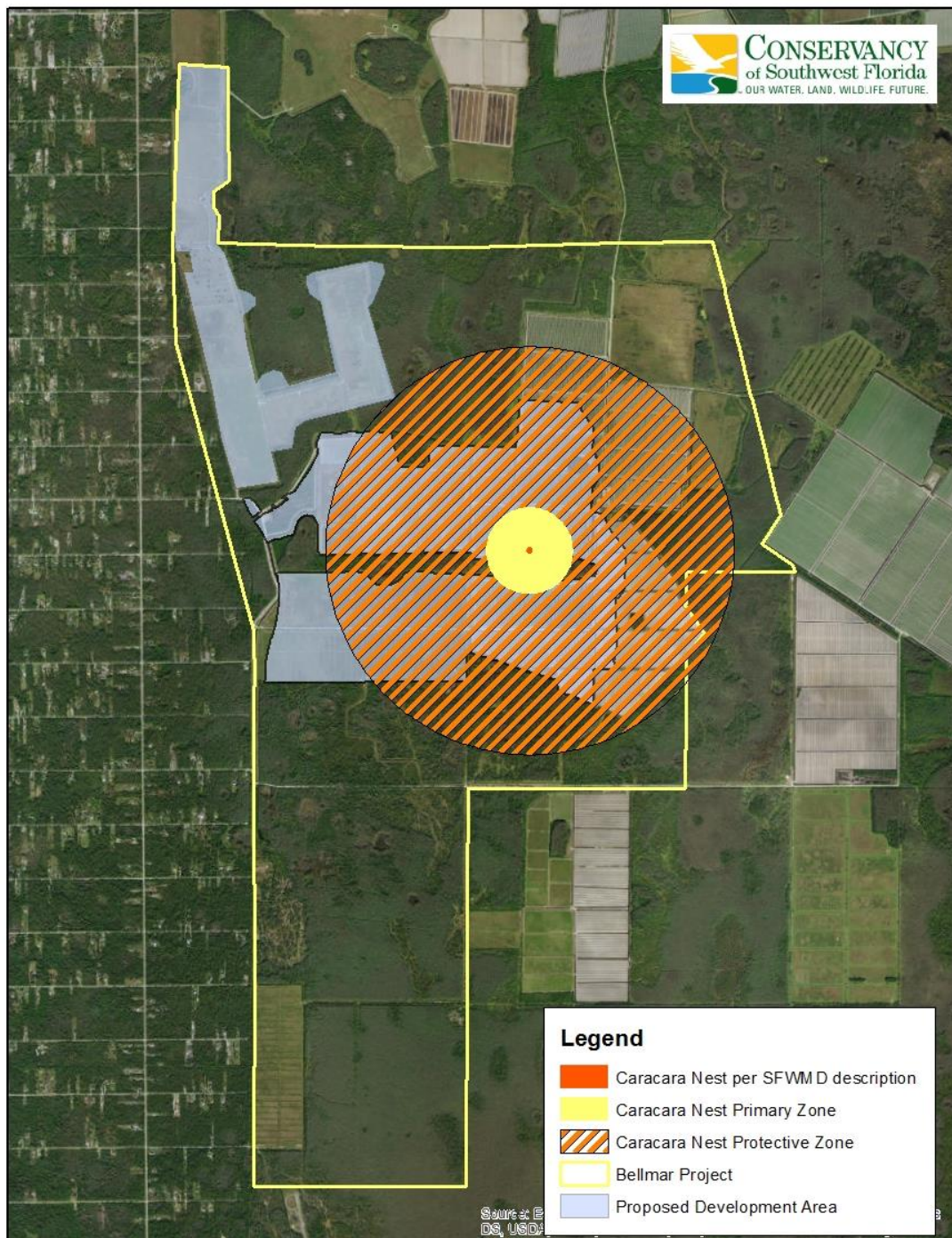
Bellmar Listed Species



Date: 2/26/2021

Figure G:

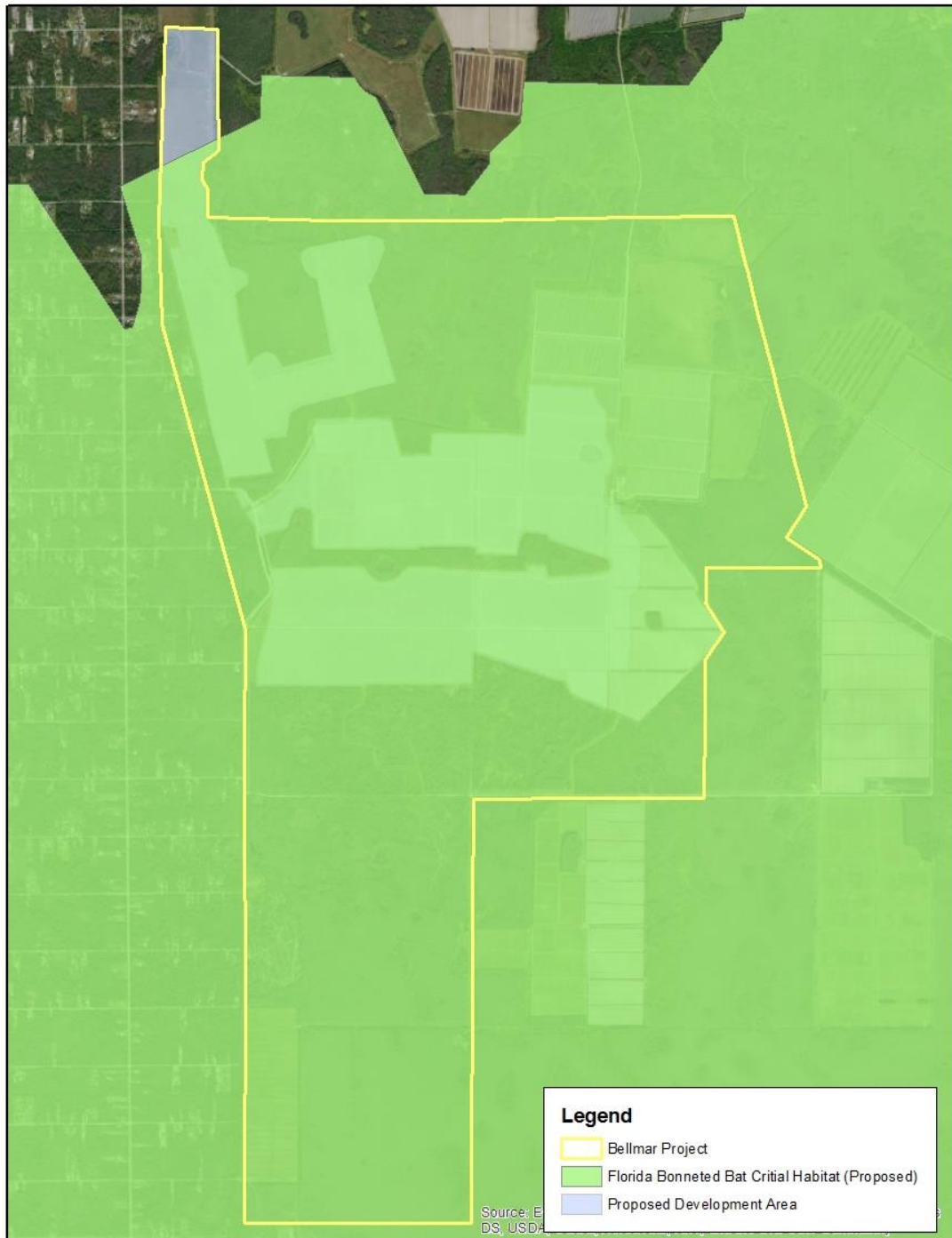
Bellmar Caracara Nest



Date: 2/26/2021

Figure H:

Bellmar & Florida Bonneted Bat Critical Habitat



Date: 2/26/2021

0 0.2 0.4 0.8 1.2 1.6 Miles



Figure I (depicting Bellmar within and near wetlands):

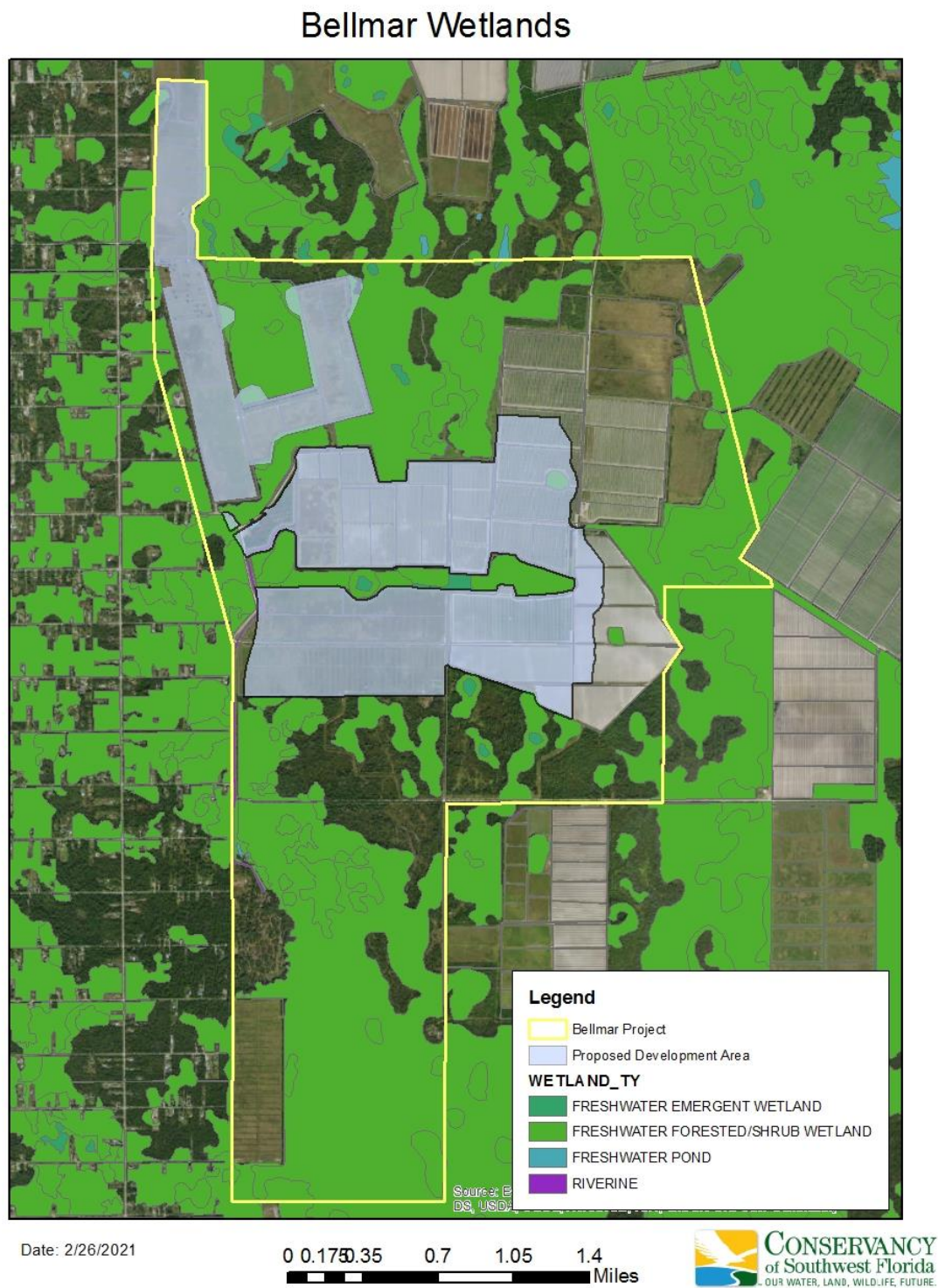


Figure J (depicting areas where impacts would occur where beige and pink crosshatch overlap):

Bellmar Wetlands

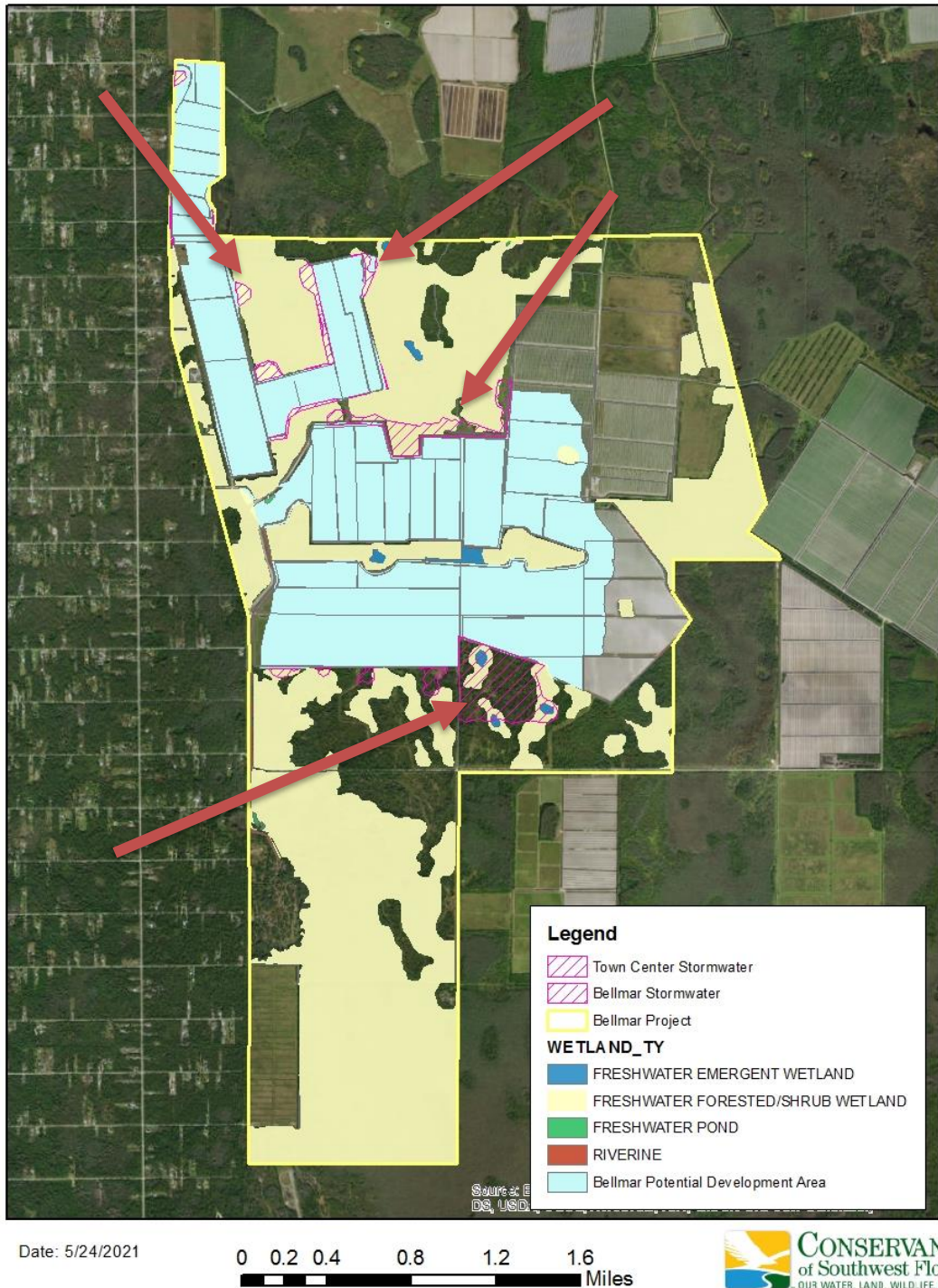


Figure K:

State 404 Permits within 5 miles of Bellmar

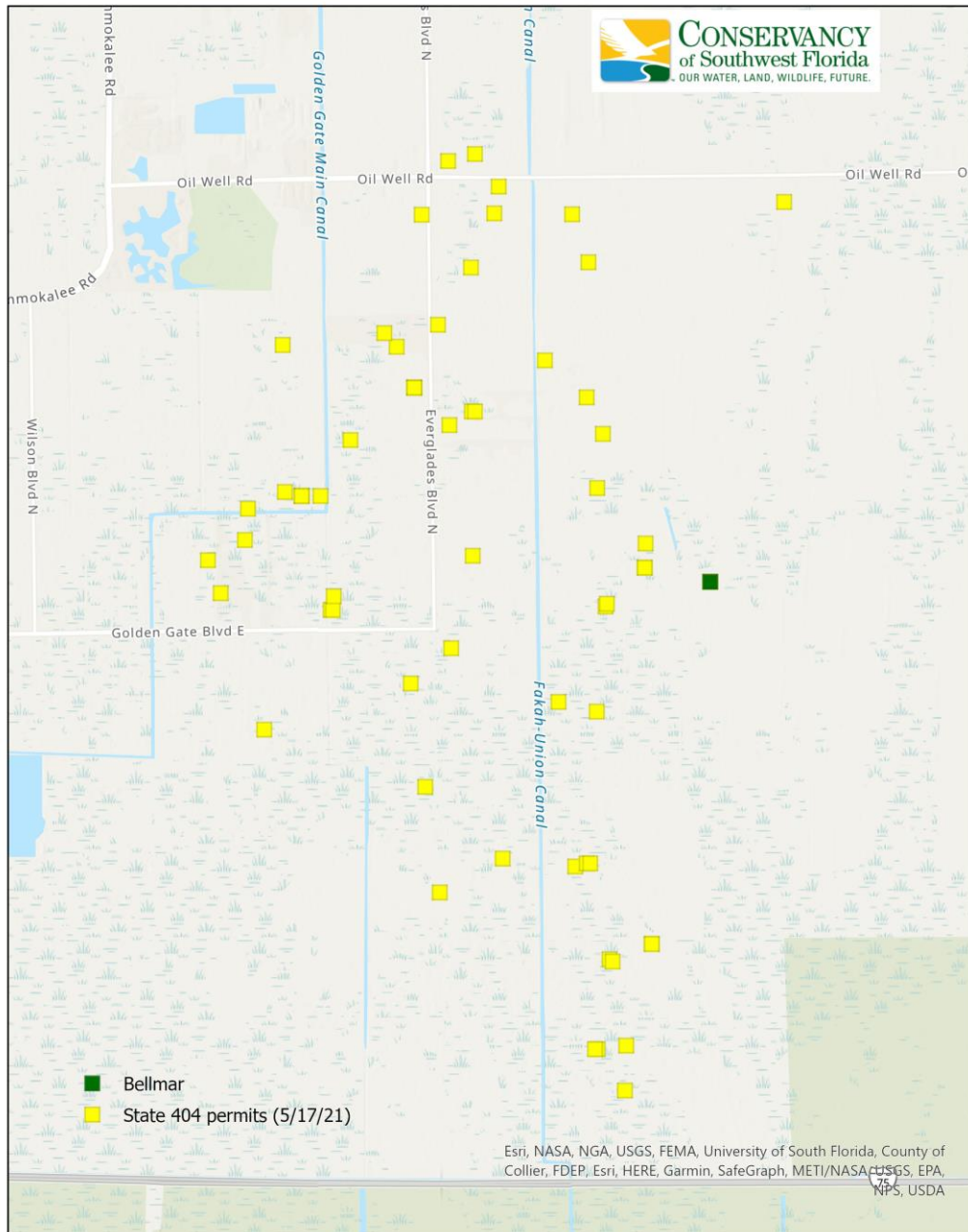


Figure L:

Bellmar & Managed Lands Proximity

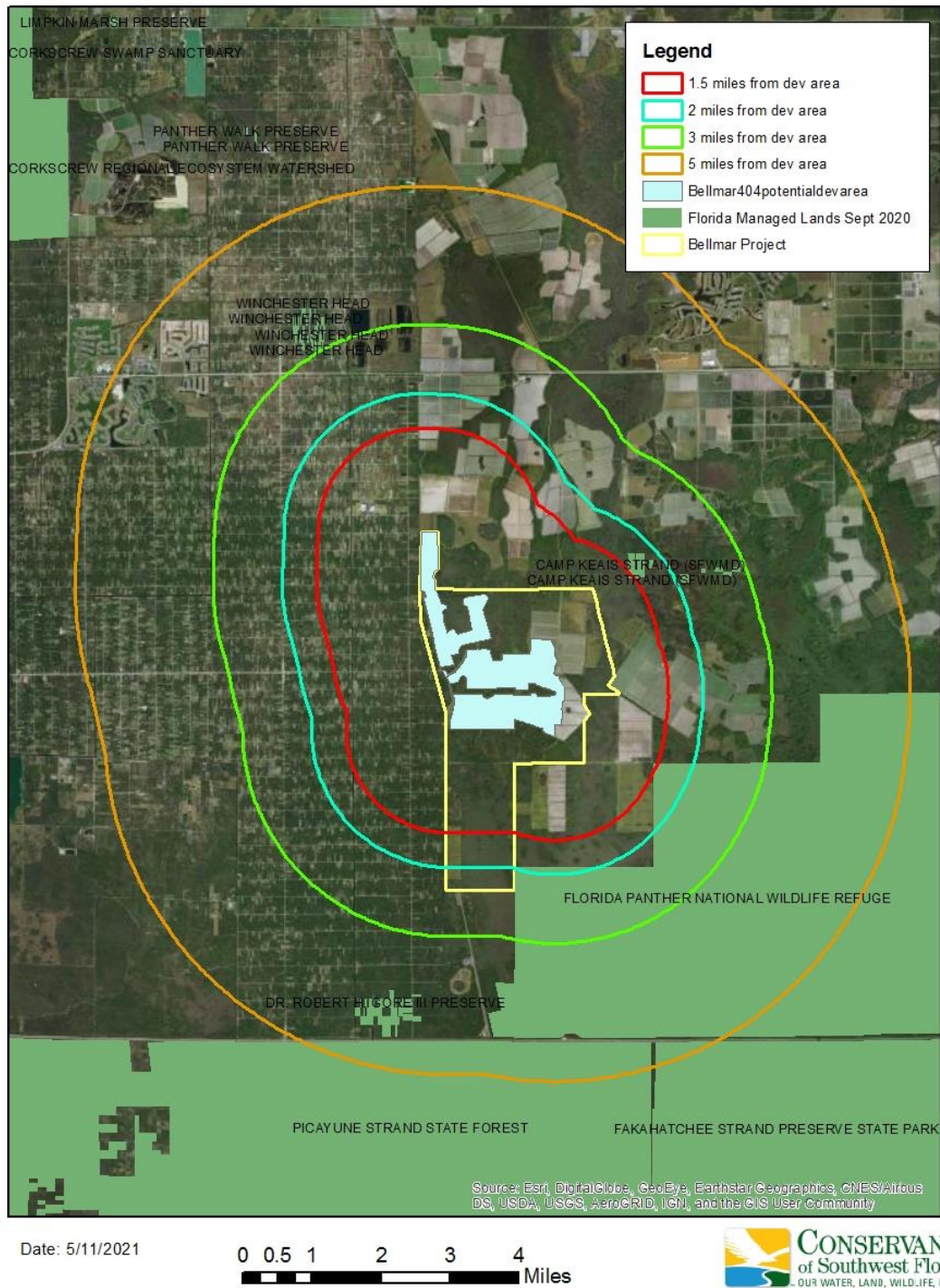


Figure M:

