



REPLY TO  
ATTENTION OF

Regulatory Division  
North Permits Branch  
Cocoa Permits Section

DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
COCOA PERMIT SECTION  
400 HIGH POINT DRIVE  
COCOA, FLORIDA 32926

**August 26, 2019**

## ***PUBLIC NOTICE***

Permit Application Number SAJ-2016-03270 (SP-JSC)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) as described below:

APPLICANT: El Maximo Ranch Holdings, LLC  
c/o Gaston Marquevich  
600 Brickell Ave., Suite 1570  
Miami, FL 33131

WATERWAY AND LOCATION: The  $\pm 7,030$  acre El Maximo Ranch Northern Everglades Public Private Partnership project would affect waters of the United States associated with the Kissimmee River Hydrologic Unit (Hydrologic Unit Code 03090101); project is located immediately south of SR 60 and east of the Kissimmee River. The proposed project is located within Sections 11-13 and 24, Township 31S, Range 31E; Sections 7, 15-23 and 25-35, Township 31S, Range 32E; and Sections 4-5, Township 32S, Range 32E, Osceola County, Florida.

Directions to the site are as follows: From Lake Kissimmee and SR 60, proceed east on SR 60 – the project is on the south side of the road.

APPROXIMATE CENTRAL COORDINATES: Latitude  $27.76567^{\circ}$   
Longitude  $-81.14023^{\circ}$

### **PROJECT PURPOSE:**

Basic: water storage and treatment.

Overall: The overall project purpose is to improve Kissimmee River water quality by diverting water to agricultural lands for impoundment, treatment and release back to the Kissimmee River in Osceola County, Florida.

Project Design: The project purpose is proposed to be achieved through a “flow through system” of eight cascading water storage basins to be impounded by a network of berms. The project will include a total of  $\pm 26.7$  linear miles of berm, including  $\pm 14.63$  miles of perimeter berm and  $\pm 12.07$  miles of internal berms. The source of water for these storage basins is proposed to be stormwater runoff collected from the surrounding

area and the larger Blanket Bay Slough tributary during flood events. In addition, regional water from Kissimmee River and Blanket Bay Slough is to be diverted through a series of pump stations and canals to provide further water availability for the Project.

The operating water levels of the berms have been set to maximize detention volumes and therefore water quality treatment potential while still achieving minimum freeboard. The operating water levels are determined by Control Structures, which are low-flow weir outfalls that have been sized to maintain constant water elevations under normal operating conditions. However during storm events these outfall structures are insufficient to pass design storm flows; therefore, secondary overflow structures have been designed to ensure berms do not overtop even during extreme rainfall events such as the 100-year event.

**EXISTING CONDITIONS:** El Maximo Ranch (fka Latt Maxcy Ranch) has historically been used for cattle grazing and agricultural activities. The existing conditions reflect the past property use, and is common land use for the region. The topography of the property is generally flat with a slight fall from east to west, and bisected by a large slough system. Habitats are a mixture of upland and primarily non-forested wetlands.

The habitats on the Project Site have been classified a land use code based on the Florida Land Use, Cover, and Forms Classification System (FLUCCS) (Florida Department of Transportation 1999). The majority of the Project Site consists of improved pasture (71.7%) with freshwater marshes (10.1%). There are 862.32 acres of jurisdictional wetlands, and 24.97 acres of other surface waters (OSW) within the Project Site.

#### Upland Land Use Types

##### Improved Pasture (FLUCFCS 211, 5,390.0 acres ±)

This is the dominate habitat type found on the Project Site. It is dominated by herbaceous grasses and herbs, primarily Bahiagrass (*Paspalum notatum*), with lesser amounts of Bermudagrass (*Cynodon dactylon*), limpograss (*Hermarthria altissima*), broomsedge (*Andropogon* spp.), pawpaw (*Asimina* sp.), carpetgrass (*Axonopus fissifolius*), frog's bit (*Phyla nodiflora*), coinwort (*Centella asiatica*), pennywort (*Hydrocotyle umbellata*), creeping beggartick (*Desmodium incanum*), and smutgrass (*Sporobolus indicus*). The improved pasture areas immediately surrounding wetland habitats contain a native saw palmetto (*Serenoa repens*) buffer. The improved pasture often contains scattered cabbage palm (*Sabal palmetto*), dahoon holly (*Ilex cassine*), wax myrtle (*Morella cerifera*), and gallberry (*Ilex glabra*). Most improved pasture on the Project Site is subject to prescribed cattle grazing, as well as periodic burning associated with habitat management.

Unimproved Pasture (FLUCFCS 212, 948.6 acres ±)

This habitat type consists of scattered native shrub and brush species including wax myrtle, various oaks, palmetto, and saltbush (*Baccharis halimifolia*). The understory is typically made up of Bahia grass, Bermuda grass, broomsedges, pennywort, beggarticks, and frog's bit.

Woodland Pastures (FLUCFCS 213, 154.5 acres ±)

This forested habitat type consists of a canopy dominated by a mixture of oaks (*Quercus* spp.), cabbage palms, slash pine (*Pinus elliotii*), and longleaf pine (*Pinus palustris*). The understory is comprised of saw palmetto and scattered wax myrtle. Groundcover is minimal and comprised of Bahia grass, wiregrass (*Aristida beyrichiana*), and broomsedges. These areas are subject to prescribed cattle grazing.

Wetland Land Use Types

Freshwater Marshes (FLUCFCS 641, 707.7 acres ±)

This habitat type consists of a mixture of herbaceous vegetation adapted to tolerate a wide range of water levels. Species include arrowhead (*Sagittaria lancifolia*), pickerelweed (*Pontedaria cordata*), softrush (*Juncus* sp.), beaksedges (*Rhynchospora* spp.), maidencane (*Panicum hemitomon*), smartweed (*Persicaria hydropiperoides*), iris (*Iris* spp.), broomsedges, coinwort, redroot (*Lachnanthes caroliana*), water hyssop (*Bacopa* spp.), and occasional sawgrass (*Cladium jamaicense*).

Wet Prairie (FLUCFCS 643, 114.9 acres ±)

This wetland habitat type includes a mixture of typical species associated with both wet prairie and freshwater marsh classifications. The outer portions have a shorter hydroperiod and the vegetation contains broomsedges, various sedges (*Cyperus* spp.), meadow beauty (*Rhexia* spp.), St. John's wort (*Hypericum fasciculatum*), redroot, and yellow-eyed grasses (*Xyris* spp.). The center portion may stay hydrated for a longer period of time and is dominated by species generally found in a freshwater marsh including maidencane, iris, softrush, and hat pins (*Eriocaulon* spp.).

Mixed Wetland Hardwoods (FLUCFCS 617, 40.7 acres ±)

This habitat type includes a mixed canopy of conifers and various hardwoods. In some areas the canopy is predominately bald cypress (*Taxodium distichum*), with lesser amounts of other species including slash pine and red maple (*Acer rubrum*), laurel oak (*Quercus laurifolia*) and water oak (*Quercus nigra*). In other areas the canopy is primarily red maple, laurel oak, and water oak. In both of these areas shrub cover is most dense on the wetland edge, where it is dominated by wax myrtle and gallberry. Within the wetland, the dominant shrub species is fetterbush (*Lyonia lucida*), which

grows on raised microsites (tree bases and hummocks). Groundcover is highly variable and includes pickerelweed, maidencane, and duck weed (*Lemna* spp.).

*Channelized Waterways, Ditches (Other Surface Waters) (FLUCFCS 512, 24.97 acres ±)*

This land use consists of upland-cut ditches located throughout the Project Site historically used to dewater pastures for cattle grazing and flood control. The habitats within these ditches are comprised of species such as arrowhead, pickerelweed, smartweed, water hyssops, and open water in the deeper zones. The herbaceous shallower zone is comprised of soft rush, coinwort, pennywort, yellow-eyed grass, and various sedges.

**PROPOSED WORK:** The applicant seeks authorization to permanently fill 5.39 acres, and excavate 3.51 acres, of waters of the United States (5.10 acres wetland; 0.29 acre surface water) for construction of  $\pm 26.7$  linear miles of berm to create treatment cells for the Project.

**AVOIDANCE AND MINIMIZATION INFORMATION** – The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

“During the planning process, efforts were made to align the proposed berm to avoid wetland impacts to the greatest extent practicable, which is clearly evident by the configuration of the internal berms. However, the location of the onsite wetlands made complete avoidance not possible. The berms around the perimeter of each basin are proposed to be earthen embankments with soils sourced on site from borrow pits on both sides of the berm. No borrow pits or excavation of any kind are proposed where berms cross wetland areas. Instead fill material will be sourced from borrow pits either side of the wetland.

The size of wetland impacts was minimized by using the steepest, safest berm side slopes (2.5:1 horizontal: vertical slope). During construction a linear borrow will be excavated from the temporary impact area used to construct the adjacent berm. The area in which the machine operates will become transition from a shallow herbaceous wetland to an open water wetland anticipate to be colonized by vegetation adapted to deeper water such as water lilies.”

**COMPENSATORY MITIGATION** – The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:



“The Mitigation Plan for the Project involves the purchase of mitigation credits from a Corps-approved wetland mitigation bank. Currently, there are no mitigation banks with service areas encompassing the Project Area, but wetland mitigation banks do exist in the same watershed as the Project (HUC 03090101 – Kissimmee). The Federal Mitigation Banking Instrument (MBI) for the Reedy Creek Mitigation Bank states: *The designated MSA [Mitigation Service Area of the Reedy Creek Mitigation Bank] serves a wide area due to the large-scale impact of detrimental activities within the Reedy Creek sub-basin. As headwaters to the Kissimmee River, impacts to Reedy Creek and adjacent or connected streams could be felt as far south as Lake Okeechobee and the Everglades.* The proposed purchase of mitigation credits will provide at least 2.46 units of Functional Gain of freshwater, non-forested credits within the watershed, and allow for water quality improvements to Lake Okeechobee and its surrounding water. At the termination of and after successful reversion of the Project, the watershed will be provided an additional 2.46 units of Functional Gain.”

#### CULTURAL RESOURCES:

The Corps is not aware of any known historic properties within the permit area, which is defined by the project boundaries. By copy of this public notice, the Corps is providing information for review. Our final determination relative to historic resource impacts is subject to review by and coordination with the State Historic Preservation Officer and those federally recognized tribes with concerns in Florida and the Permit Area.

#### ENDANGERED SPECIES:

The action area includes the entire 8.3± acre project site. The Corps has determined the proposed project “may affect, but is not likely to adversely affect” (NLAA) wood stork (*Mycteria americana*). The proposed activity is within the Core Foraging Area (CFA) of a rookery; the project supports marginally Suitable Foraging Habitat (SFH) for wood stork. Based on the *Effect Determination Key for the Wood Stork in South Peninsular Florida* (dated May 2010), the Corps determination sequence is as follows: A (Project impacts SFH at a location greater than 0.47 miles from a colony site) > B (Project impact to SFH is greater in scope than 0.5 acres) > C (Project impacts to SFH within the CFA of a colony site > E (Project provides SFH compensation) = NLAA. The project provides SFH compensation within the CFA consisting of enhancement, restoration or creation (and federal mitigation bank credits) that provides an amount of habitat and foraging function equivalent to that of the impacted SFH; in accordance with the Clean Water Act section 404(b)(1) guidelines, and is not contrary to the habitat management guidelines. The Corps has U.S. Fish and Wildlife Service (USFWS) concurrence for the proposed activities through use of the aforementioned determination key.

The Corps has determined the proposed project NLAA the Eastern Indigo Snake (*Drymarchon couperi*). Based on the *Eastern Indigo Snake Programmatic Effect Determination Key* (dated August 1, 2017), the Corps determination sequence is as

follows: A (The project is not located in open water or salt marsh.) > B (The permit will be conditioned for use of the Service's Standard Protection Measures for the Eastern Indigo Snake during site preparation and construction.) > C (The project will impact less than 25 acres of eastern indigo snake habitat.) > D (The project has holes, burrows or other refugia) > E (Any permit will be conditioned such that all gopher tortoise burrows, active or inactive, will be excavated prior to site manipulation in the vicinity of the burrow. If an indigo snake is encountered, the snake must be allowed to vacate the area prior to additional site manipulation in the vicinity. Any permit will also be conditioned such that holes, cavities, and snake refugia other than gopher tortoise burrows will be inspected each morning before planned site manipulation of a particular area, and, if occupied by an indigo snake, no work will commence until the snake has vacated the vicinity of proposed work) = NLAA. The Corps has USFWS concurrence for the proposed activities through use of the aforementioned determination key.

Based on existing habitat types and/or provided survey information, the Corps preliminarily determined the project will NLAA, red-cockaded woodpecker (*Leuconotopicus borealis*), Everglades Snail Kite (*Rostrhamus sociabilis plumbeus*), Audubon's crested caracara (*Polyborus plancus audubonii*), Florida Grasshopper Sparrow (*Ammodramus sadvannarum floridanus*) Florida Bonneted Bat (*Eumops floridanus*), and Florida Panther (*Puma concolor coryi*); the project will have no effect on Florida scrub-jay (*Aphelocoma coerulescens*).

**ESSENTIAL FISH HABITAT (EFH):** This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996. The proposal would impact approximately 8.9 acres of primarily freshwater marsh and wet prairie wetlands located in the Kissimmee River watershed. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in the Kissimmee River. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

**NOTE:** This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

**AUTHORIZATION FROM OTHER AGENCIES:** Water Quality Certification may be required from the Florida Department of Environmental Protection and/or one of the state Water Management Districts.

**COMMENTS** regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Cocoa Permits Section, 400 High Point Drive, Suite 600, Cocoa, Florida 32926 within 15 days from the date of this notice.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

QUESTIONS concerning this application should be directed to the project manager, Jeffrey Collins, in writing at the Cocoa Permits Section, 400 High Point Drive, Suite 600, Cocoa, Florida, 32926; by electronic mail at Jeffrey.S.Collins@usace.army.mil; by fax at (321) 504-3803, or by telephone at (321) 504-3771 extension 13.

**IMPACT ON NATURAL RESOURCES:** Coordination with USFWS, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**COASTAL ZONE MANAGEMENT CONSISTENCY:** In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

**REQUEST FOR PUBLIC HEARING:** Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.





## Legend

NEPPP Boundary - 7,030.3 ac. ±



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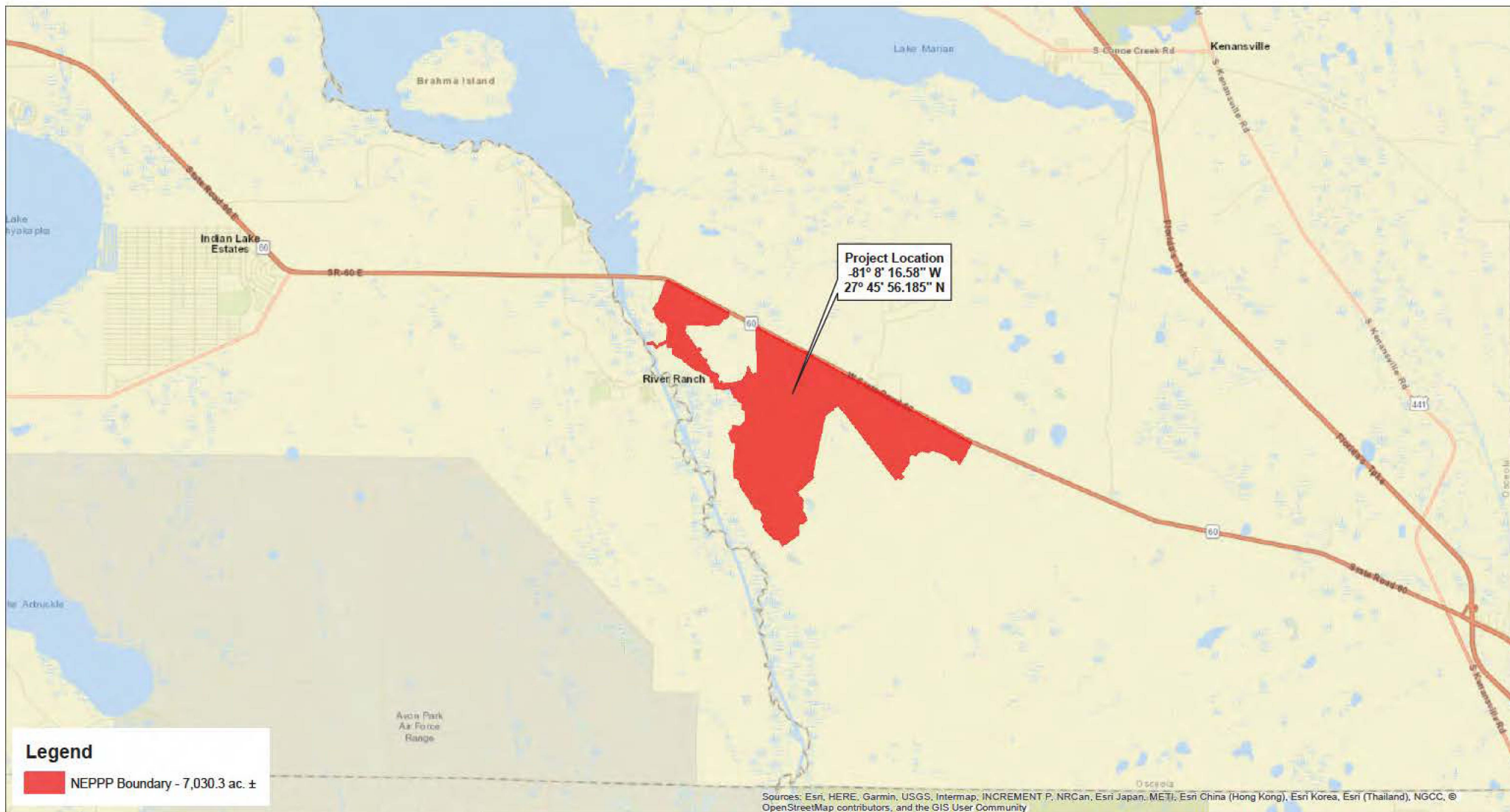
## Aerial

El Maximo Ranch NEPP  
Osceola County, Florida



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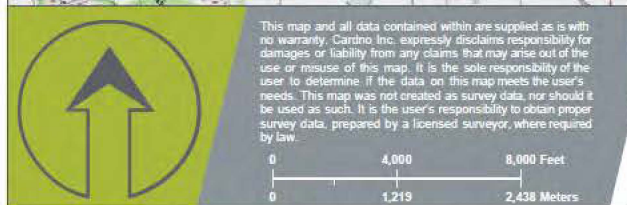
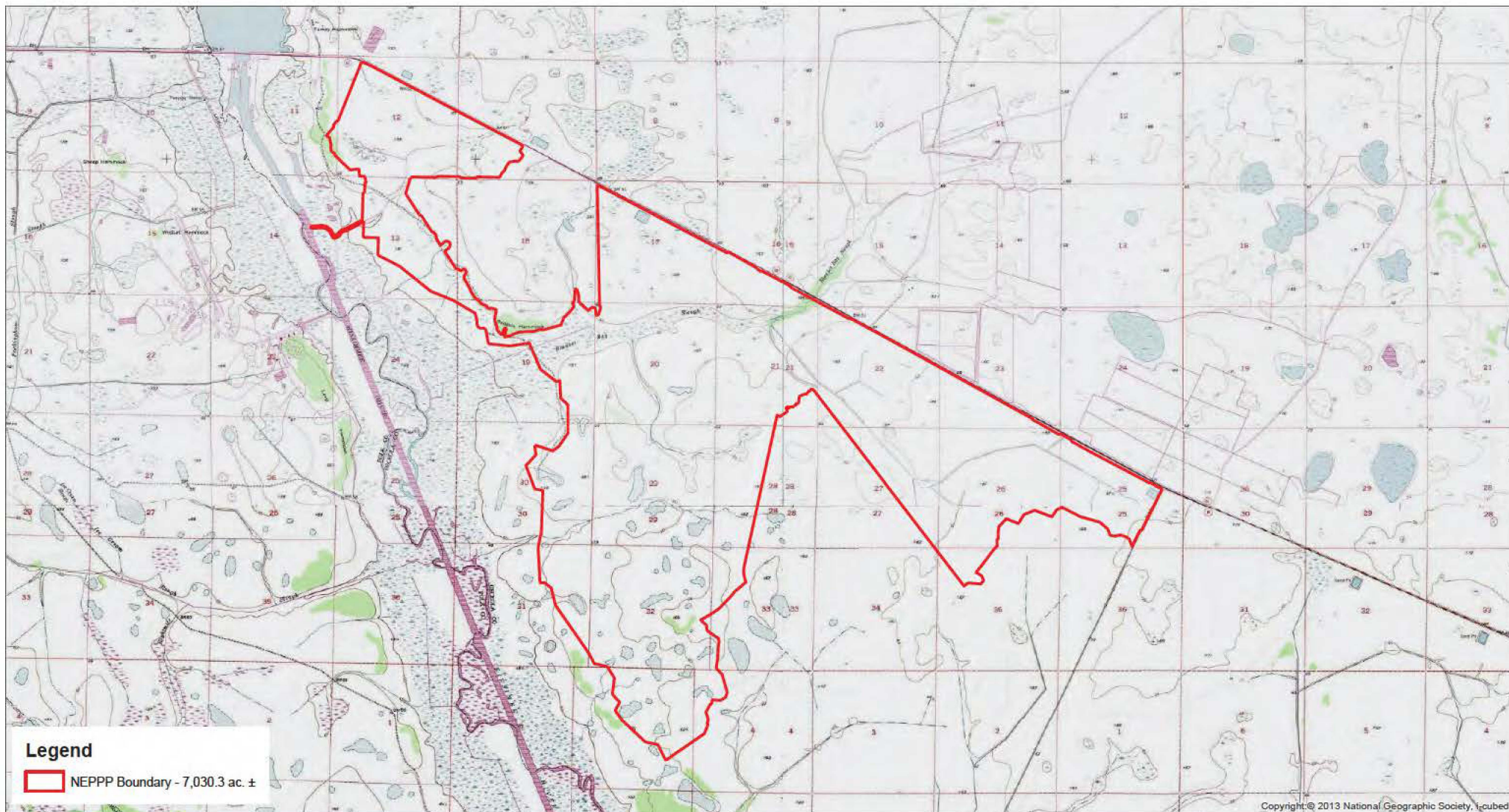
## Project Location

El Maximo Ranch NEPPP  
 Osceola County, Florida



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Data Created: 11/6/2019 Date Rev used: 12/3/2019 File Path: G:\Ltr\GIS\Bates\Final\Temp\El\_Maximo\_Ranch\_NEPPP\Processing\map\El\_Maximo\_Ranch\_NEPPP\_QUAD\_20191106.mxd  
GIS Analyst: James F. Palmer

## USGS QUAD

El Maximo Ranch NEPPP  
Osceola County, Florida

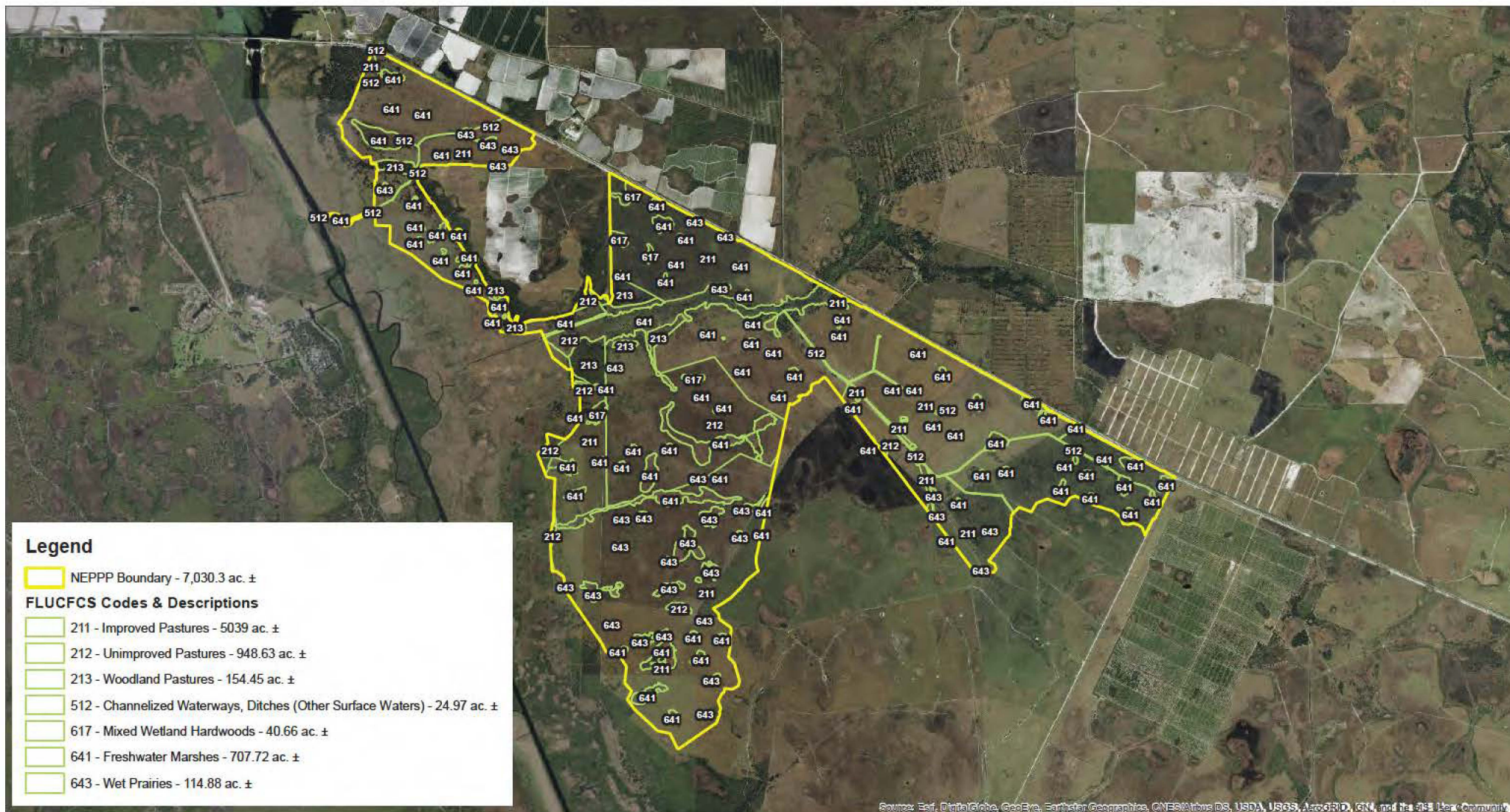


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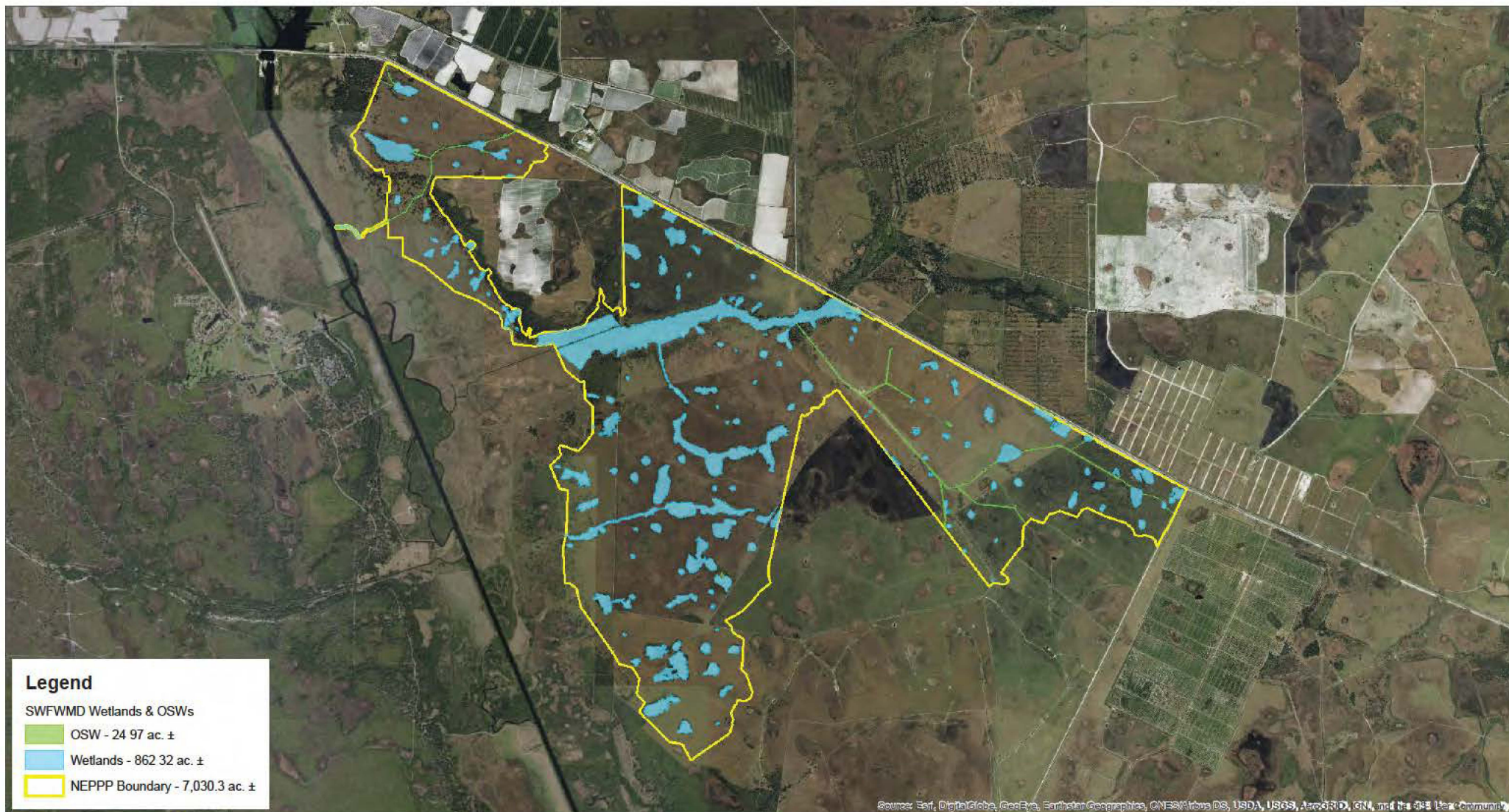
## Land Use

El Maximo Ranch NEPP  
Osceola County, Florida



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Sources: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

## Legend

SWFWMD Wetlands & OSWs

OSW - 24 97 ac. ±

Wetlands - 862 32 ac. ±

NEPPP Boundary - 7,030.3 ac. ±



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## Wetlands & OSWs

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