

Presentation to Levy County BoCC

Memo regarding the request to appoint a Board Member to the
Waccasassa Water and Wastewater Cooperative

May 7, 2024



How did we get here?

- **November 22, 2022:** County Staff presented an informational item regarding potential County involvement in the Cooperative that included the Feasibility Report titled “Phase 1: Regional Alternative Water Supply Feasibility – Cedar Key, Bronson, Otter Creek, and Unincorporated Areas in Levy County”; a draft Interlocal Agreement to form the Cooperative; and a County Staff Memorandum
- **December 6, 2022:** County Staff presented a second Memorandum that provided answers to several questions and a decision tree for BoCC consideration. After discussion and public comment, the BoCC approved sending a letter of support for the Project.
- **June 13, 2023:** the Cooperative was created as a legal entity by Interlocal Agreement between the Town of Bronson, the Town of Otter Creek and the Cedar Key Water and Sewer District, an independent special district governmental entity.
- **January 17, 2024:** The Cooperative Board discussed expanding the Board to include Commissioner John Meeks to represent the Levy County BOCC and Tammy Boyle to represent the Levy County School Board.
- **March 5, 2024:** The County Coordinator presented an item for the BoCC to discuss adding a County Commissioner to the Cooperative Board. The BoCC requested that County Staff return with further information.

Can the BoCC appoint a member to the Cooperative Board?

No, a County Commissioner cannot be a Director of the Cooperative unless the County becomes a Member of the Cooperative.

- The Cooperative Board is comprised of one Director appointed by each Member and has broad powers and duties to govern and manage the Cooperative and carry into effect the provisions of the Interlocal Agreement.”
- The Cooperative Board may admit additional Public Agencies to membership upon application of the Public Agency and the affirmative vote of the majority plus one of all Directors at a duly called meeting of the Cooperative.
- In deciding whether to become a Member of the Cooperative (and therefore eligible to appoint a Director to the Cooperative Board), the BoCC should carefully consider the **purpose** of the Cooperative, the **requirements** of each Member, the **objective(s)** of the County, and the County **resources** that will be required.

What is the purpose of the Cooperative?

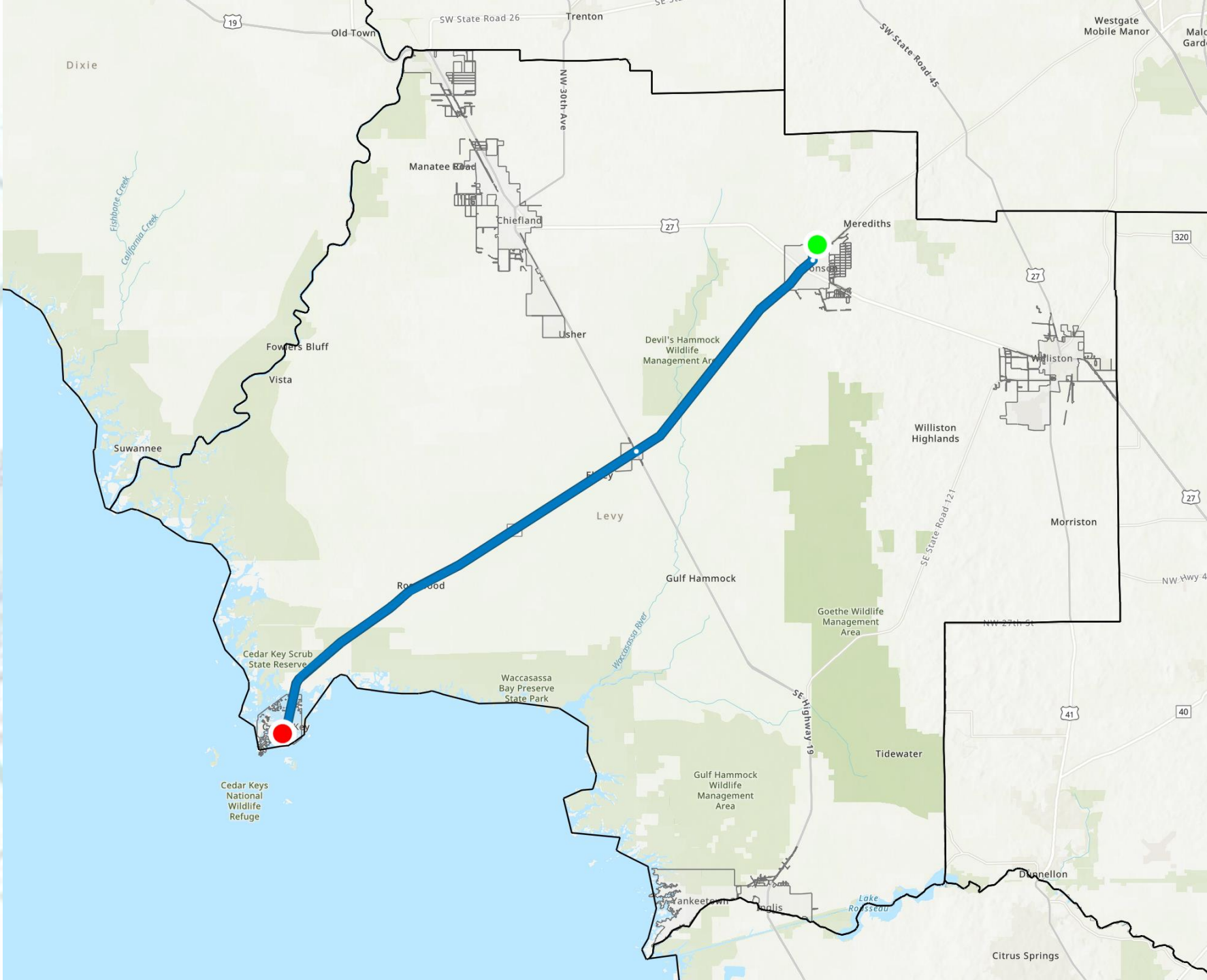
To plan for, develop, finance, construct, improve, own, operate, maintain, manage, acquire, and dispose of Cooperative Facilities for the purpose of providing Wholesale Water and Wastewater Service. The Cooperative may also provide local/retail water and wastewater service with the express consent of the local entity.

The Cooperative is granted broad powers to achieve its purpose, including: hiring staff, adopting a budget, capital improvement planning, constructing infrastructure, setting rates and connection fees.

The Cooperative must generate its revenue from Utility fees, rates and charges; grants; contributions from its Members; and bonds and other indebtedness. The Cooperative is not authorized to levy ad valorem taxes.

The Plan

To bring water and wastewater services from Bronson to Cedar Key.





What are the member requirements?

What are the Member Requirements?

Is a Member required to purchase Wholesale Water Service or Wholesale Wastewater Service? Not generally addressed; however, there are specific provisions that state CKWSD is not required to receive any service and that CKWSD does not consent to the Cooperative providing local/retail service to customers within the CKWSD service area.

Interesting because (1) the purpose of the Cooperative is to provide Wholesale Water and Wastewater Service; and (2) the Project identifies Cedar Key (including its tourist population) as the largest water and wastewater service user and a primary driver for the Project need.

What are the Member Requirements?

Are Members required to consent to the location of Cooperative Facilities? Yes, each Member does so when it signs the Interlocal Agreement. “Cooperative Members hereby consent and agree to the Cooperative acquiring, owning, improving, operating and maintaining Cooperative Facilities within their respective jurisdictions in accordance with the terms of this Interlocal Agreement, sound engineering practices and applicable law.”

“In carrying out their statutorily conferred zoning, land use and comprehensive planning powers and responsibilities, the Cooperative Members shall not prohibit or unreasonably restrict the use of land for the location of Cooperative Facilities or for other Cooperative purposes.”

What are the Member Requirements?

Are Members allowed to withdraw from the Cooperative?

- **Yes**, at any time, provided there are at least two Cooperative Members remaining.
- If the County becomes a Member and other Members – such as Bronson and CKWSD - withdraw, the County could be left with significantly greater responsibilities.

What are the Member Requirements?

Are Members responsible for the obligations of the Cooperative?

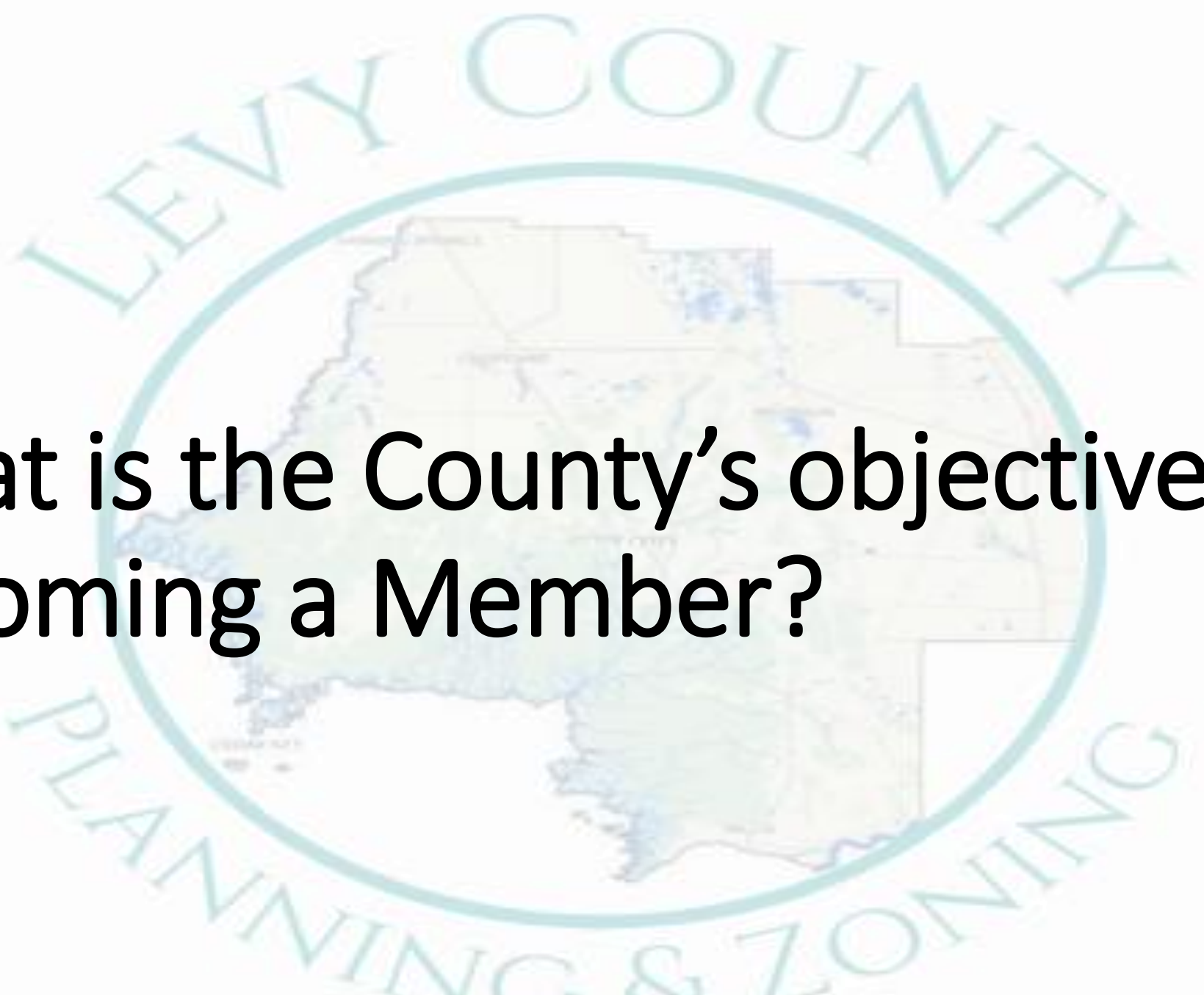
The Cooperative is a separate legal entity and responsible for its own obligations; however, upon termination of the Cooperative “prior to any such termination becoming effective, provision must be made for payment of all outstanding expenses and liabilities of the Cooperative.”

“If the Cooperative has insufficient funds to satisfy its outstanding Obligations, expenses, and liabilities (including any grants awarded to the Cooperative that could trigger repayment requirements if they are not satisfied), the responsibility for funding any deficiencies shall be shared equally by the Cooperative Members unless all Cooperative Members agree in writing to a different method of allocating responsibility for such deficiencies.

What are the Member Requirements?

Is the County required to take over the Cooperative utilities if terminated or abandoned?

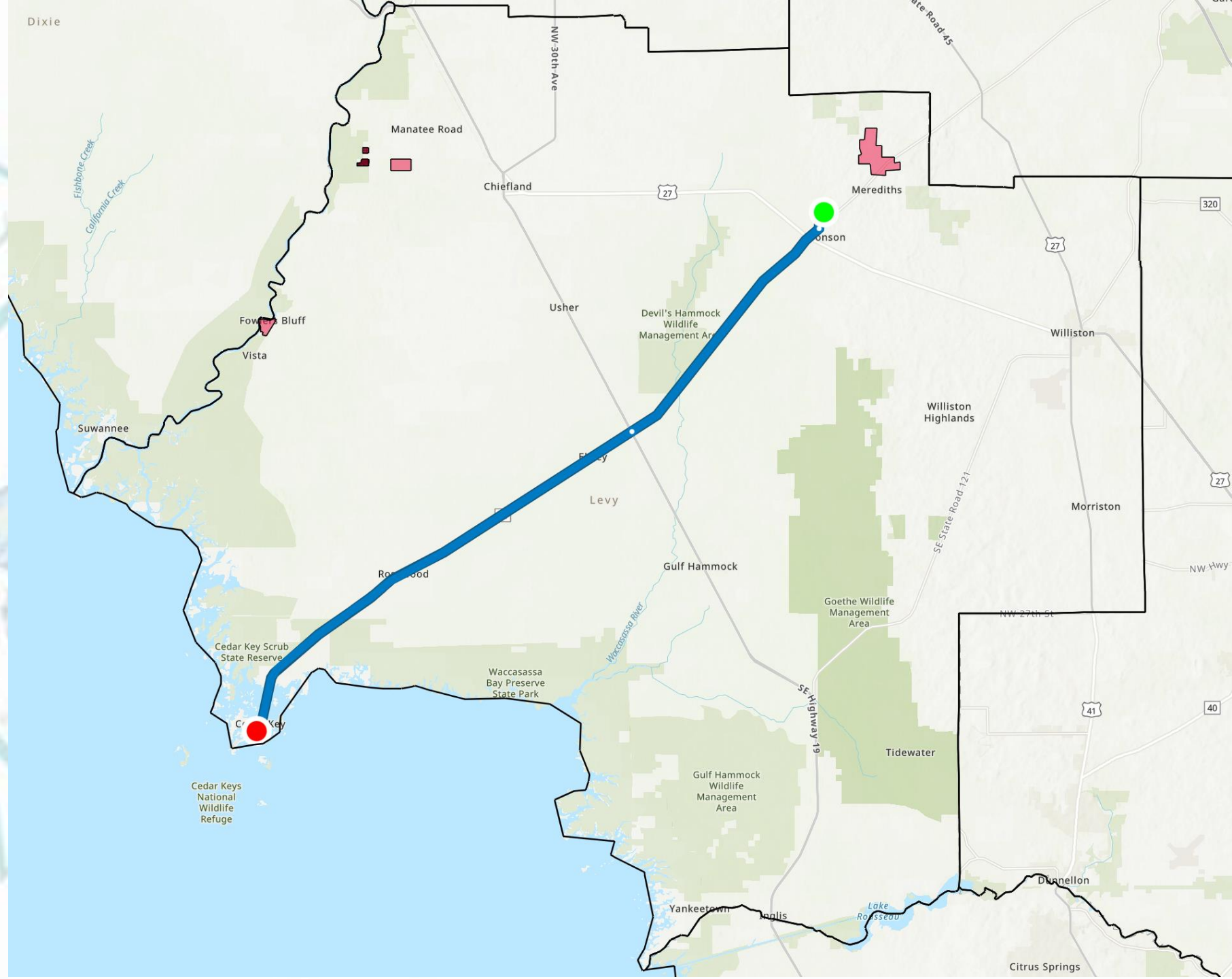
- **No**, not if it does not become a Member.
- Florida Statutes state that in the event of abandonment of a water or wastewater utility regulated by the Public Service Commission (F.S. exempt systems owned by governmental authorities – such as the Cooperative and local governments- and certain other systems), the County is required to petition the Court for appointment of a receiver to operate the utility until a permanent owner/operator can be found and the County may be the receiver.



What is the County's objective in becoming a Member?

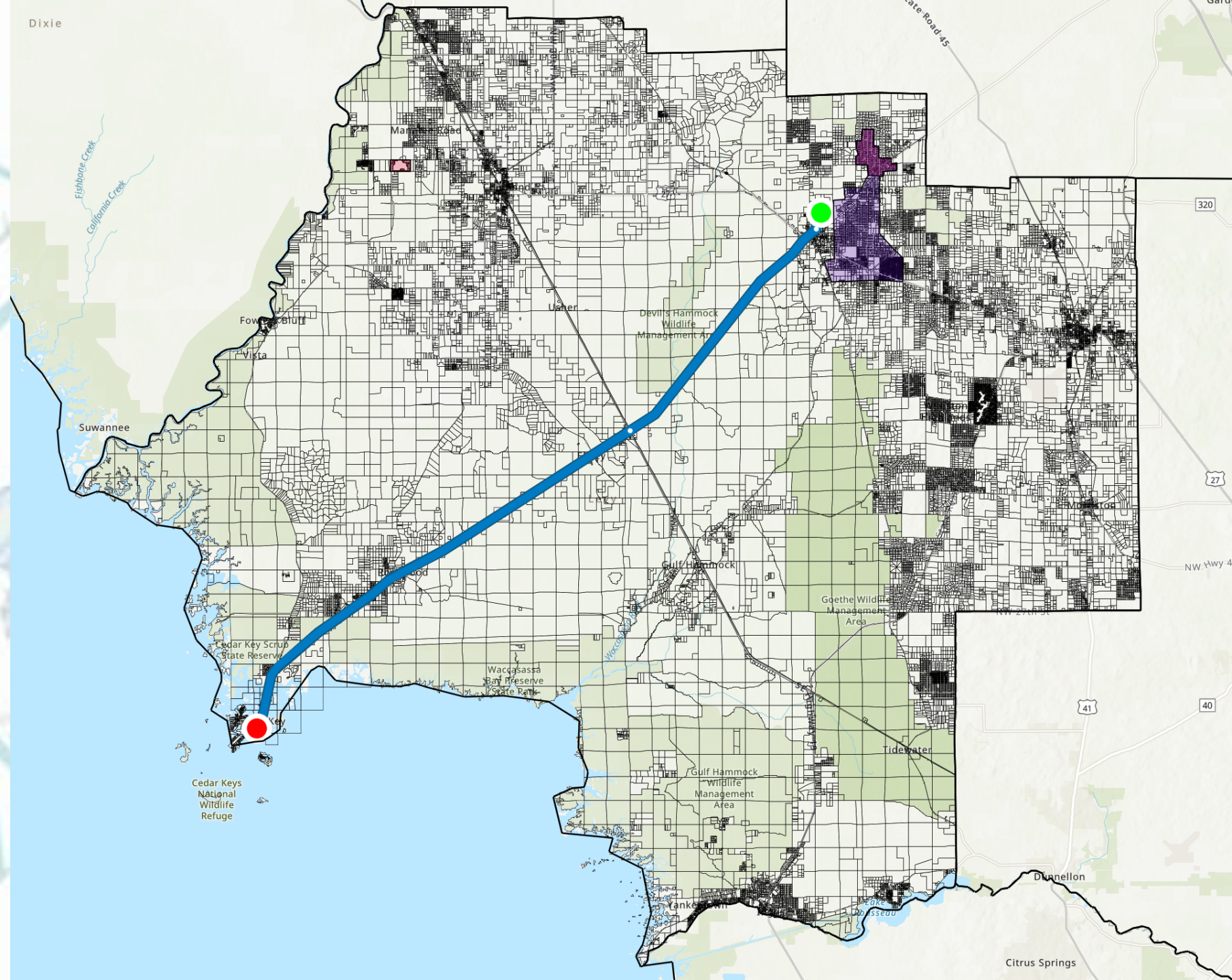
Current County Water Utilities

- Approximate locations of areas where county is currently providing water services.
- Projected path would not be able to connect to these.



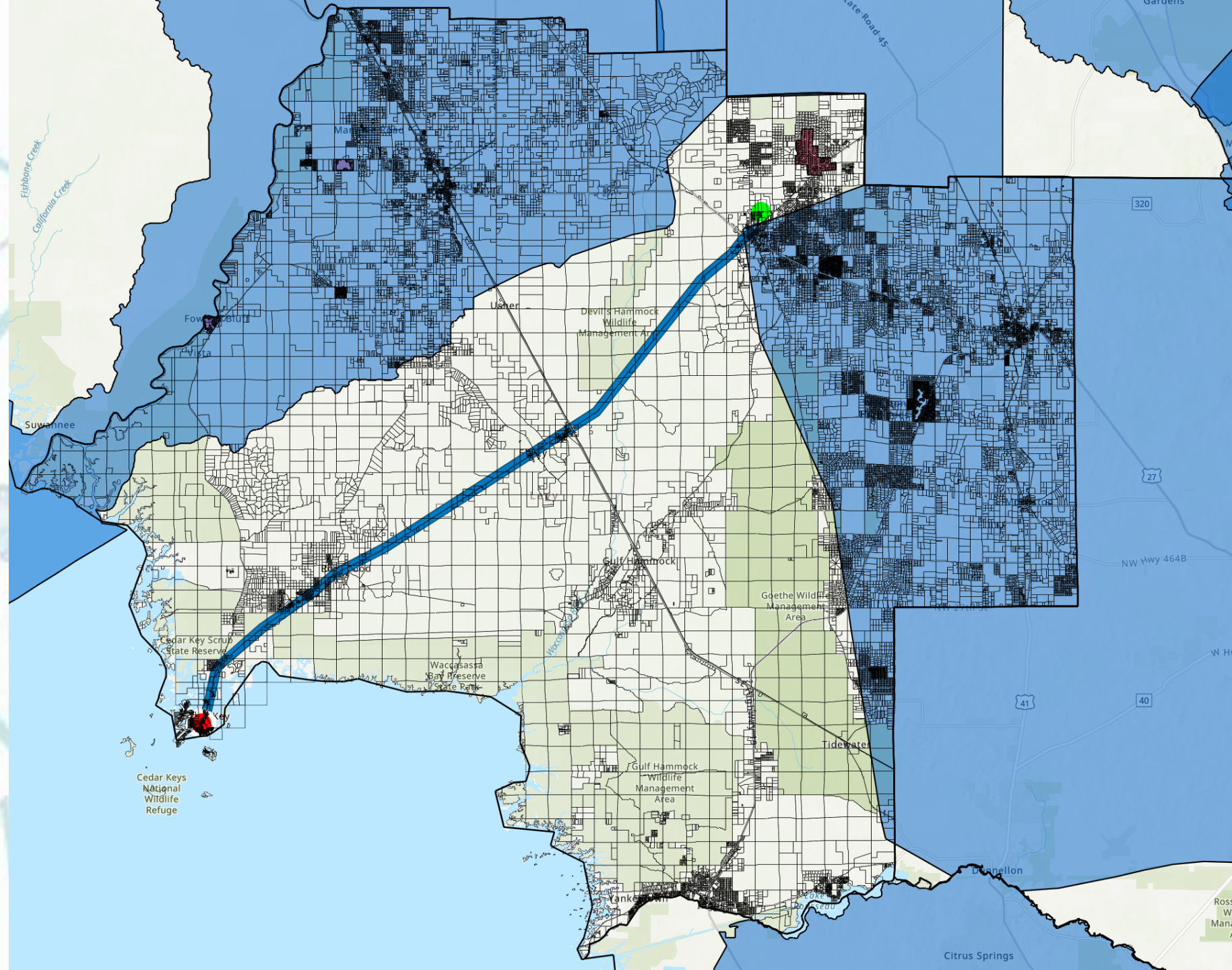
Proposed Expansion of Water Utilities

Within the Study Area, County staff notes that higher density development already exists and is rapidly being permitted for single family residential within the purple highlighted area. That makes this area more suitable for utility service expansion.



BMAP

Basin
Management
Action Plan area
where enhanced
nitrogen reducing
septic tanks are
already mandated
to protect our
rivers and springs.



County Objectives: Rosewood and Sumner

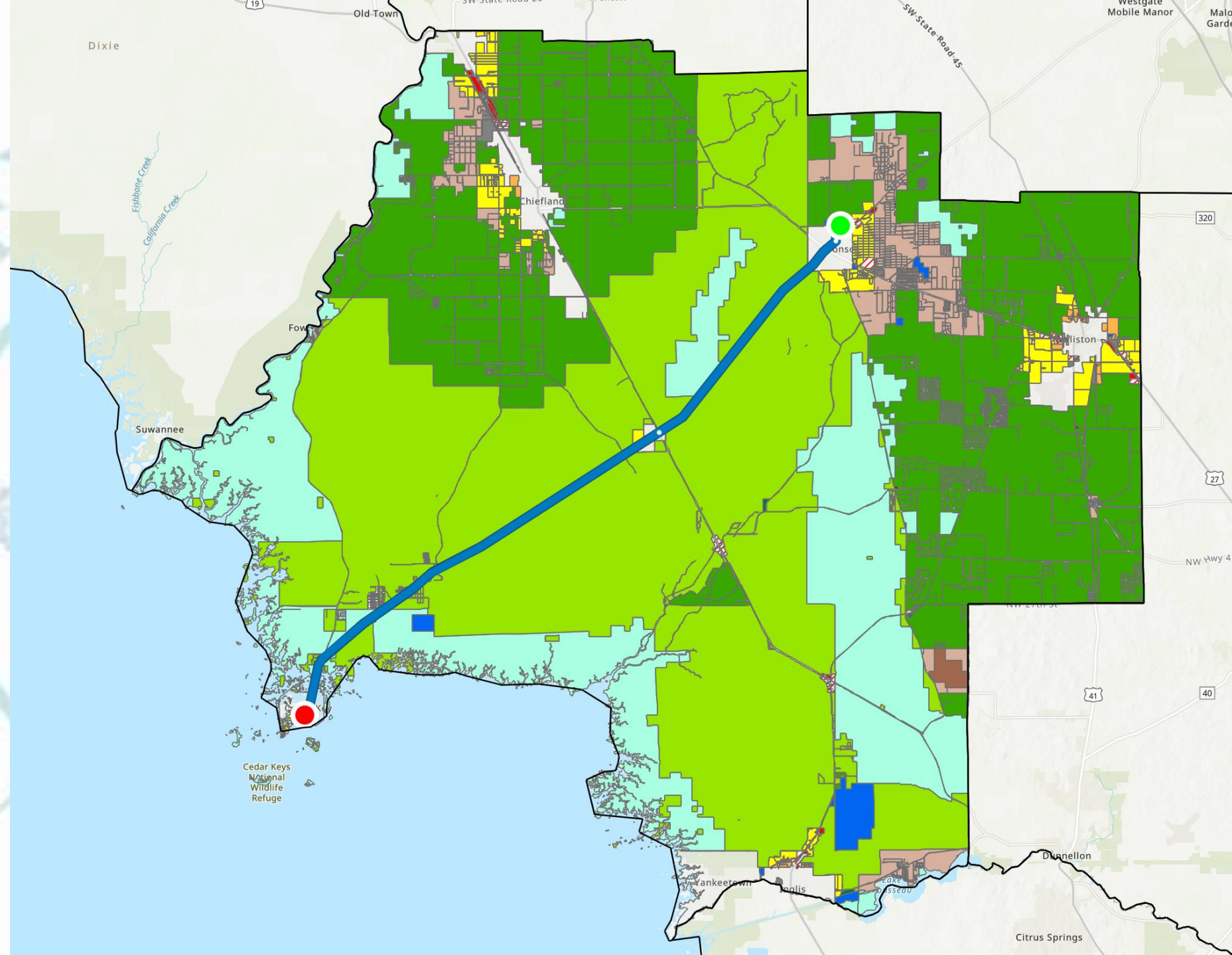
- The County could consent to the Cooperative serving as the local utility in this area, rather than becoming a Member of the Cooperative.
- Alternatively, the County could establish a County utility and install local distribution/collection infrastructure to serve such areas.
- The Report estimated the cost for distribution/collection infrastructure to serve the Rosewood and Sumner areas to be **\$4.3 million** for water and **\$15.8 million - \$19.5 million** for wastewater depending how far service extends from State Road 24.

County Objectives: Rosewood and Sumner

- Regardless of who provides service in this area, the County should carefully consider – from a Planning and Zoning perspective - that providing utilities encourages and supports development.
- This area is zoned F/RR (low density, 20 acres per dwelling unit) and is affected by Flood Zones, Hurricane Surge areas and Environmental Sensitive Land overlays – it is generally not conducive to high density development that would support (and pay for) utility infrastructure and operations.

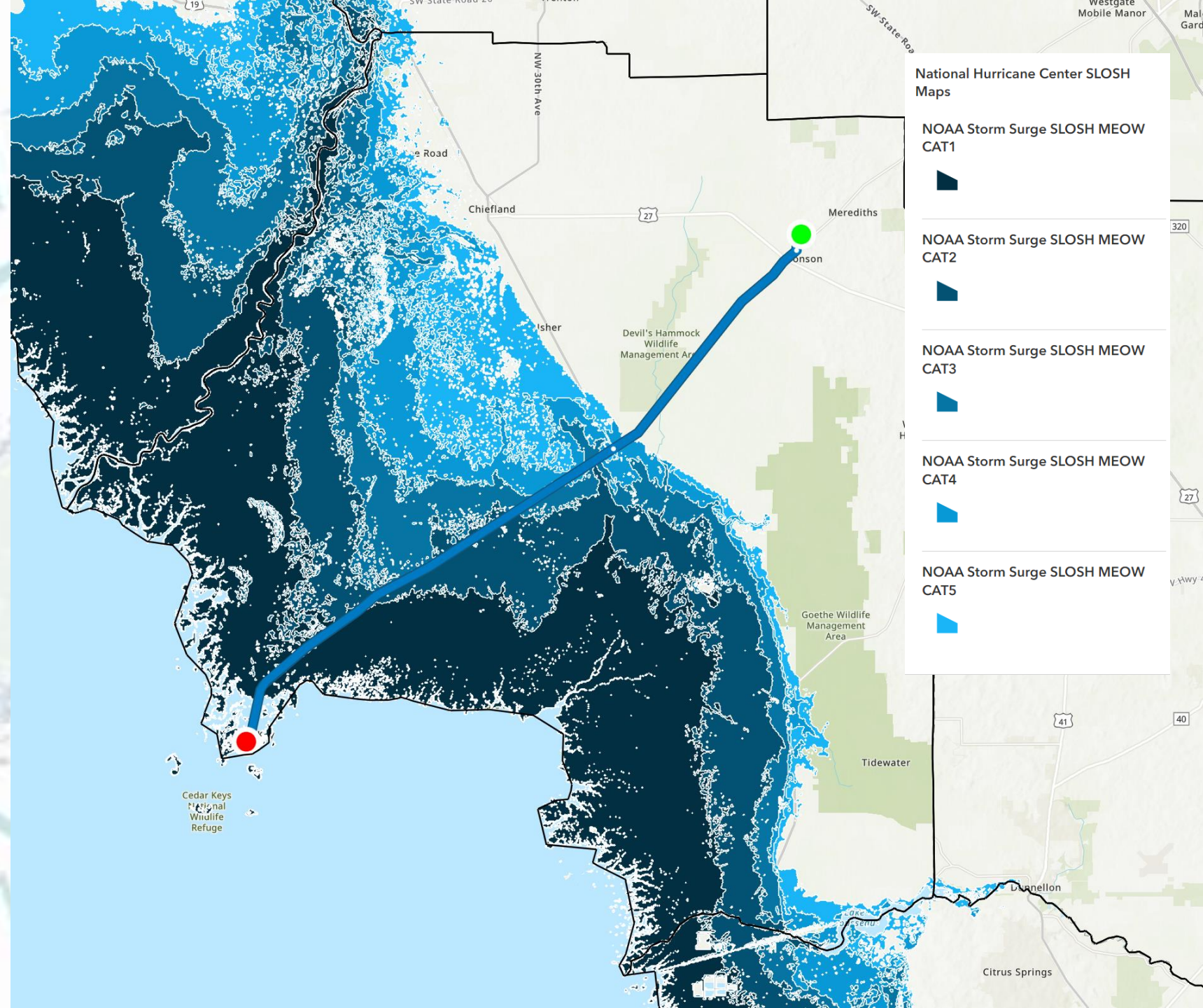
Zoning

Most of the area in the proposed path has a zoning and future land use of **Forestry** (1 unit per 20 acres) or **Natural Resource / Conservation**.



Hurricanes

Much of the area in the proposed path is in our Hurricane Evacuation Areas (National Hurricane Center SLOSH maps).

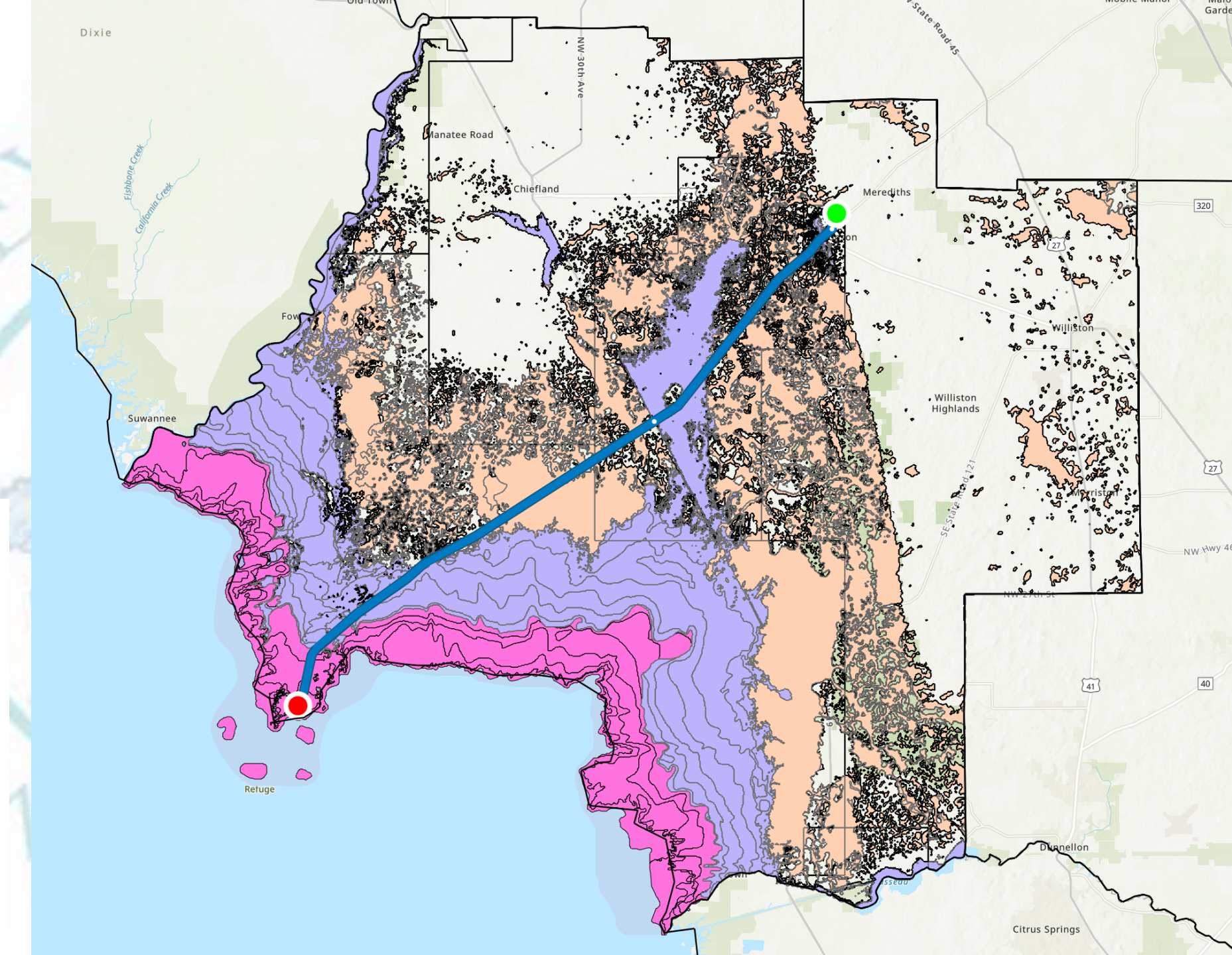


Flood Zones

Much of the area in the proposed path is in a FEMA Flood Zone.

Levy County Environment_WFL1 - FEMA FLOOD

-  A
-  AE
-  AO
-  AREA NOT INCLUDED
-  OPEN WATER
-  VE
-  X
-  others



What resources would the County need to devote to additional utility operations and to being a Member of the Cooperative?

- Existing County Staff are functioning at workload capacity. Current County Water Utilities are managed by the County Construction and Maintenance Staff and operated by an outside contractor.
- If the County becomes a Member of the Cooperative, additional County staff and assistance from outside consultants will be needed to support and inform the BoCC and the BoCC's appointed Director.
- Funds would need to be budgeted for these purposes.

Has the Board gauged resident interest and acceptance of mandatory connection and paying for water and wastewater utilities?

- The Study focuses on the need for the Project in terms of environmental benefits and existing poor water quality. Often government must take on projects that serve necessary public purposes, but are not money makers and do not “pay for themselves” (subsidized by the General Fund.)
- As a general principal, utilities should be paid for by the Users – those who take the service.

Has the Board gauged resident interest and acceptance of mandatory connection and paying for water and wastewater utilities?

- Is this Project requested by residents in the unincorporated Study Area?
- Is the Board prepared to mandate connection (as required by FS) once a system is available to serve?
- Are residents along the Project route amenable to this mandatory connection, to abandoning their existing wells and septic systems, and are they willing and able to pay the rates that must be established to make the water and wastewater utility service sustainable?



Recommendation

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- The BoCC discuss its objective(s) and the responsibilities that it will take on if it becomes a Member of the Cooperative, including staffing and budgeting.
- If the BoCC decides to become a Member, direct appropriate staff to make application to the Cooperative. Upon unanimous approval by the Cooperative Board, the Chair will execute a counterpart to the Interlocal Agreement to effectuate its Membership. The BoCC will then need to appoint a Director to the Cooperative Board.
- The Director (and assigned County staff) will have an on-going obligation to keep the BoCC informed and represent the BoCC position regarding the Cooperative's activities and projects.

Staff Opinion

Given the flood prone nature and hurricane vulnerability of this area, as well as the low density, expanding utilities, which will lead to further development, does not seem fiscally or environmentally responsible.

