

3.6.4 Natural Resources Comments and Responses

Comment 3.6-1: (Letter 2, Steven Neuhaus, Orange County Executive, June 10, 2015):

The DGEIS states that there are no wetlands within the annexation territory. This is not the case; the wetlands map in Section 3.6 of the DGEIS notes five areas designated as wetlands by the National Wetlands Inventory. Additionally, there are wetlands within the existing boundary of the Village, designated both by the National Wetlands Inventory and the New York State Department of Environmental Conservation. Development of the annexation territory will cause additional strain on all these wetlands areas through increased runoff, some of which will contain typical pollutants such as road salt and vehicle fluids.

Response 3.6-1: The DGEIS in fact states, on page 3.6-3, that: "One area within the Village is mapped as State-regulated wetlands (MO-11), located within the south to southeastern portion of the Village, and a number of small federally-mapped wetlands are scattered about the Village and annexation lands. These are shown in Figure 3.6-5. There is no State or locally regulated wetland area mapped in the lands proposed for annexation. The Town regulates wetlands on a site by site basis, requiring delineation of on-site and adjacent surface waters, wetlands and drainage patterns that could be affected by construction activity as part of its stormwater management regulation. Both State and Town also regulate a 100-foot wetland buffer area outside of the regulated wetlands."

DGEIS Figure 3.6-4 shows the NYSDEC wetland and its buffer in Kiryas Joel that is regulated by the State. Figure 3.6-5 further shows mapped wetlands and water bodies, including Coronet Lake, that are afforded protections under State and federal regulations. Any development proposed in these areas may need permits from agencies other than the lead agency for the annexation action. That is the purpose of the subsequent SEQR review that the DGEIS states on page 2-13: "Subsequent to any approved annexation, the use and development of lands annexed to the Village will ... be subject to the appropriate SEQRA review as well as all other relevant local, State and federal laws and regulations."

This DGEIS acknowledges that urban runoff from development may affect surface waters including wetlands, and therefore identifies impact-reducing measures: "For every site specific plan that would disturb more than an acre of land, a stormwater management design plan will be required to incorporate structures and methods designed to satisfy the requirements of the NYSDEC Stormwater Management Design Manual with regard to sizing and performance criteria for site-specific stormwater management practices that properly treat stormwater runoff. Site specific measures related to erosion and sedimentation control must be designed and implemented in accordance with the New York 'Standards and Specifications for Erosion and Sediment Control.' In the future when land is developed, without or with annexation, an applicant for a site development project will need to submit a stormwater pollution protection plan (SWPPP) to the regulating municipality for review and approval at the time of detailed site plan review. The objective of the SWPPP is to control runoff of pollutants from the project area during and after construction activities by complying with the NY State Pollutant Discharge Elimination System (SPDES) Stormwater Permit for Construction Activities."

Comment 3.6-2: (Letter 2, Steven Neuhaus, Orange County Executive, June 10, 2015):

Impacts to the Ramapo River go unaddressed in the DGEIS. The village wastewater system,

which will be serving the bulk, if not all, of the development occurring in the proposed annexation territory, drains into an unnamed tributary of the Ramapo River. The unnamed tributary has been shown to have high levels of salinity, a degradation of the water quality that can be traced directly to point and nonpoint source pollution occurring within the current Village boundary. Additional development in the annexation territory will further degrade water quality in the unnamed tributary and further downstream in the Ramapo River watershed.

Response 3.6-2: *The DGEIS discusses impacts to the Ramapo River in pages 3.5-23 and 3.5-24 (Water Quality) and 3.5-33 and 3.5-34 (Potential Impacts to Ramapo River). The Orange County Sewer District #1 is responsible for the treatment plants' operation (Harriman Wastewater Treatment Plant and Kiryas Joel Wastewater Treatment Plant) and to ensure that plant's SPDES effluent discharge limits are maintained. The NYSDEC establishes the SPDES wastewater discharge permit effluent limits to protect the water quality of the receiving waters.*

The Village is not aware of water quality studies regarding the unnamed tributary into which the Village WWTP discharges. Public records demonstrate that the Kiryas Joel WWTP, which is operated by Orange County Sewer District #1, is currently operating within its permit limits.

Comment 3.6-3: (Letter 2, Steven Neuhaus, Orange County Executive, June 10, 2015): The DGEIS does not adequately examine the impacts of growth on the territory proposed for annexation. For example, the document does not examine how potentially adverse impacts to natural resources (soils, wildlife, habitat, and wetlands, etc) and visual resources in the proposed annexation territory will be avoided, minimized or mitigated. No estimate of disturbance of the various resources, no assessment of cumulative impacts as a result of directing growth to this area is provided per the scoping document.

Response 3.6-3: *The impact of growth is not the subject of the generic EIS on the annexation action. The DGEIS clearly establishes that annexation would not cause impacts to natural resources (soils, wildlife, habitats, wetlands, biodiversity, etc) and visual resources in the proposed annexation territory.*

The DGEIS, however, provides generic assessments of potential effects of the growth. With regard to natural resources, the DGEIS refers to the 507 acres when it states on pages 3.6-5 and -6: "Development could disturb virtually all of the land in some fashion, either resulting in temporary or permanent removal of vegetation. ... Cumulatively, loss of existing natural resources over portions of the annexation lands as they are developed for human use will result in incremental reductions in habitat potential for the indigenous species." The DGEIS outlines mitigation measures on page 3.6-7 that would apply to site-specific project proposals.

As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including SEQRA and the Village and/or Town zoning codes. Accordingly, while the DGEIS cannot identify site-specific development proposals that would be presented to the Town or Village in the future, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals, to consider the open space needs of its residents and to be carefully cognizant of important environmental assets of the annexation territory.

Comment 3.6-4: (Letter 3, James C. Purcell, Village of Monroe Mayor, June 10, 2015):

Despite the projected significant increase in population growth and development in the area proposed to be annexed (premised in part on the availability of water and wastewater/sewer services and higher density zoning), the DGEIS refuses to study in any detail the impact of this significant population growth and development on natural resources, including wildlife, habitats, wetlands and water resources. Instead, the DGEIS baldly concludes that land disturbance resulting from construction activities will be "to much the same degree" with or without annexation. The DGEIS cannot ignore the significant environmental impacts on natural resources that the development of the proposed annexed properties will cause. Thus, additional studies are needed of the impact that the proposed population growth and high density development will likely have on the area's natural resources, including wildlife, habitats, wetlands and water resources, and the associated mitigation measures necessary.

Response 3.6-4: Refer to response to comments 3.6-3 and 3.6-1.

Comment 3.6-5: (Letter 7, Edward Goodell, Executive Director, New York-New Jersey Trail Conference, June 12, 2015):

It is not true that dense development is more sustainable and has a lower impact on its surroundings, as claimed in the DGEIS, if it results in severely altering natural space. Dense development would be better suited to using vacant lots in urban areas than despoiling rural areas, and creating a heavy user impact on its water and waste treatment resources.

Response 3.6-5: As noted in the DGEIS, the Orange County Comprehensive Plan has identified the area in the vicinity of Kiryas Joel as a future growth center, encouraging smart growth development in proximity to existing development and services, presumably to avoid the concept of suburban sprawl.

NYSDEC's Lead Agency Determination of January 28, 2015 for the 507-acre annexation petition states: "Compact, high density development is more likely to result in a community that is more walk-able, bike-able and more conducive to mass transit while reducing vehicle miles traveled and generation of greenhouse gas emission from combustion. As a general rule, high density development, appropriately sited, is considered more environmentally sustainable and conserves open space."

The DGEIS recognizes that future applications for site development will also be subject to SEQRA as well as all other applicable federal, State and local laws. Accordingly, while the DGEIS cannot identify site-specific development proposals that would be presented to the Town or Village in the future, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals, to consider the open space needs of its residents and to be carefully cognizant of important environmental assets of the annexation territory and land around it.

Comment 3.6-6: (Letter 7, Edward Goodell, Executive Director, New York-New Jersey Trail Conference, June 12, 2015):

Due to available resources, this area is currently zoned for "rural residential" living (homes on 1 - 1.5 acres) and if developed under its current zoning would have a moderate if not insignificant population increase in the coming years. If Kiryas Joel were to annex this land they would re-zone it to coincide with current village zoning codes to urban and build high-density high-rise housing. The impact to the natural surroundings necessary to accommodate this growth has not been addressed by this DEIS. Assuming the annexed lands will be rezoned to coincide with the current Village of Kiryas Joel, the deforestation that would

ensue would lead to the loss of habitat for many species, including the Indiana Bat and Dwarf Wedge mussel, both on the endangered species list. The clear-cutting of these trees will also completely alter the rural landscape and aesthetic of the greenway. Although the document mentions the area has been noted as habitat for potential rattlesnake dens and other protected species, we note that no official survey has been carried out. The lack of such surveying calls into question the thoroughness of this DEIS.

Response 3.6-6: *The potential impact of development from the projected growth on the natural environment is stated on DGEIS page 3.6-5: "Development could disturb virtually all of the land in some fashion, either resulting in temporary or permanent removal of vegetation." Until such time as there is a site specific development plan, evaluation of the potential impact on protected species of a site specific action, and identification of necessary avoidance or other mitigation, is beyond the scope of the generic EIS.*

Refer to response to Comment 3.6-22.

Comment 3.6-7: (Letter 13, Matt Higgins, June 7, 2015): Flooding is an issue.

Response 3.6-7: *The Kiryas Joel Code Chapter 77 was adopted to minimize losses due to flooding: "The Board of Trustees of the Village of Kiryas Joel finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Kiryas Joel and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted."*

Comment 3.6-8: (Letter 18, Stephen Welle, Mayor, Village of Harriman, June 10, 2015):

The Village of Harriman has experienced elevated chloride levels in wells located along the Ramapo River over the last few years. The salinity of the waters flowing from the KJ Poultry plant has increased. At the same time the wells in the Village of Harriman have suffered. This is an impact which apparently has been ignored by the DGEIS and the scope. These environmental impacts must be studied.

Response 3.6-8: *Alleged impacts to the Village of Harriman resulting from the KJ poultry plant are not related to the annexation action and are, therefore, beyond the scope of this DGEIS. The plant is a privately owned and operated facility and according to the Poultry Plant's legal counsel, significant improvements have been made at this facility intended to improve its wastewater discharge to the Village WWTP (see comment letter #45). Currently the Village WWTP is operating within its NYSDEC SPDES permit limits (see DGEIS Appendix G6).*

Comment 3.6-9: (Letter 39, Tracy Schuh, The Preserve Collective, Inc., June 22, 2015): It

has been argued that high density housing uses less of some resources; however it may use more of others. In the question of the overall benefit, green space needs to be preserved. Otherwise, with unlimited growth, in the end, you use up all the land and many of the benefits prove illusory.

SEQR gives local boards' independent authority to impose conditions on project approvals to mitigate negative impacts on open spaces and their associated environmental features. Open space helps control storm water runoff, preserves surface water quality and stream flows, and aids in the infiltration of surface water to replenish aquifers just to name a few benefits.

When lands are converted to other uses, the natural benefits provided by open space often must be replaced through the construction of water treatment facilities and infrastructure to control storm water, all paid for through local tax revenue. A series of studies have found the preservation of open space to be a more economical way to address storm water requirements.

Open space shouldn't be an afterthought. That is what international planning expert Randall Arendt, author of *Designing Open Space Subdivisions*, believes. A New York Times article described his philosophy as "a good development...starts with what you don't develop." According to him, "you identify the open space first". The DGEIS did not do so and this should be addressed.

Response 3.6-9: *Comments noted. As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including SEQRA and the Village and/or Town zoning codes. Likewise, as noted in the DGEIS, future applications for site development will also be subject to SEQRA as well as all other applicable federal, State and local laws. Accordingly, while the DGEIS cannot identify site-specific development proposals that would be presented to the Town or Village in the future, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals, to consider the open space needs of its residents and to be carefully cognizant of important environmental assets of the annexation territory.*

Comment 3.6-10: (Letter 40, Russ Kassoff, Monroe, June 22, 2015): We simply do not have the natural resources to sustain the projected population growth in this area without extraordinary expensive means that should not be borne by the overall community for which a huge acquisition of natural resources would be needed whether from the unsmart, unsustainable growth of the KJ community already here or an influx of people to a built up, rezoned, high growth annexation land.

Response 3.6-10: *Comment noted. See response to Comment 3.6-9.*

Comment 3.6-11: (Letter 42, Lorraine McNeill, June 21, 2015): The DGEIS does not adequately address the increased impervious surfaces and the additional runoff due to high density housing as indicated above. Specifically, the document does not correctly address the effect that additional runoff will have on current drainage basins.

Response 3.6-11: *Evaluation of the potential impact of runoff from additional impervious surfaces from a site-specific action and identification of appropriate avoidance or other mitigation without a site-specific development plan is beyond the scope of a generic EIS. The DGEIS identifies some of the resources available to a developer and the reviewing agencies to identify and mitigate the effects of increased impervious surfaces and treatment of surface water runoff, including the State's 'Stormwater Management Design Manual'. As an MS4 community, the Village is responsible for managing the Village's stormwater systems and reviewing all development projects pursuant to the State's stormwater regulations.*

Comment 3.6-12: (Letter 42, Lorraine McNeill, June 21, 2015): The DGEIS mentions inter-basin transfers as follows: "Thus, the water resources of the Ramapo watershed will be augmented by the inter-basin transfer of water, increasing the surface flow volume without a

corresponding withdrawal from the Ramapo Basin.” The transfer to the Ramapo basin is from the Moodna basin. What is not properly addressed is how this would affect the Moodna basin, which is already stressed.

Response 3.6-12: *The Village plans a connection to the Catskill Aqueduct for its primary source of drinking water, which is anticipated to be completed in 2017. The connection would transfer water from the Ashokan Reservoir and watershed area to the Ramapo River watershed. Water from the Moodna drainage basin area would be tapped by the Mountainville well, which is proposed as back-up water supply for those times when the Aqueduct is shut-down for repairs or otherwise limited and as an interim supply until completion of the Aqueduct connection. The transfer of water from the Moodna watershed would be limited (up to 425 gpm) and used on a limited basis.*

Comment 3.6-13: (Letter 47, Margie Turrin, June 22, 2015): Currently there are wastewater discharges upstream of the Ramapo Valley and Suffern well fields of approximately 8 mgd, which coincidentally is equal to the amount of river flow at these well fields during times of drought. This wastewater amount will increase with the new development being discussed as part of this annexation, which will overwhelm the flow in this area. Rockland County commissioned a USGS study to look at our water resources from the period 2005-2007. This report (USGS 2010-5245, Paul Heisig) was published in 2010 and noted that during times of drought most of the well fields' water supply comes from the river, not the wells. I have already noted that during times of drought this flow is primarily treated wastewater. This is a major concern as the wastewater plant was not designed to treat the water up to drinking water standards and this added 'flush' of wastewater into the Ramapo will require added and costly treatment prior to use as drinking water.

Response 3.6-13: *The Orange County Sewer District #1 is responsible for the operation of the Harriman Wastewater Treatment Plant and Kiryas Joel Wastewater Treatment Plant and to ensure that effluent discharge limits are maintained. The NYSDEC establishes the SPDES wastewater discharge permit effluent limits to protect the water quality of the receiving waters. The Village supports the operation and maintenance of the Plants through the taxes and user fees of its residents.*

The Ramapo River drains an area of some 112 square miles in New York, including portions Orange and Rockland Counties. The discharge from the Harriman Wastewater Treatment Plant is only a small portion of the large drainage volume that contributes to the Ramapo River drainage system or watershed. Flow in this large drainage system is not primarily treated wastewater.

Comment 3.6-14: (Letter 48, Geoff Welch, The Ramapo River Committee, June 22, 2015): Kiryas Joel is located in the Northern Headwaters of the Ramapo River Watershed. The Watershed is also the designated area of the Federal Ramapo River Sole Source Aquifer listed in 1992. Since undeveloped forested lands offer the highest level of surface and ground water quality and protection, we request that the supplemental DEIS address environmental impacts from the expected urban level of development in the proposed Kiryas Joel annexation areas, particularly in the onsite streamflow source areas, of the Ramapo River designated Sole Source Aquifer.

Response 3.6-14: *The proposed annexation lands are partially developed land in a suburban setting and are not contiguous undeveloped forest land. The 507 acres under consideration consist of less than one-square mile in the Ramapo watershed that*

consists of approximately 112 square miles in NY State. The annexation lands would be developed according to allowable zoning, as well as all other applicable federal, State and local laws.

Comment 3.6-15: (Letter 48, Geoff Welch, The Ramapo River Committee, June 22, 2015):

Please address downstream environmental impacts on surface and ground water and on the public water supply areas and the Ramapo River aquatic ecosystem in New York and New Jersey. Special consideration should be given to potential negative impacts from non-point source pollution and point source pollution on the aquatic ecosystem and the recreation uses in the several mile segment of the Ramapo River in Harriman State Park downstream in Orange County and the New York State Recreational Ramapo River Corridor in Rockland County.

***Response 3.6-15:** Non-point source pollution from development is subject to NYSDEC stormwater and construction regulations. In the Village, which is an MS4 community, these regulations are implemented during and after construction to minimize off-site surface water impacts. Point sources would be limited to the Village Wastewater Treatment Plant, which is operated by Orange County Sewer District #1, and the Village's stormwater system. The WWTP is required to meet the water quality treatment limits of its SPDES permit. The Village is responsible for managing the water quality of discharges from the municipal stormwater system in accordance with the State General Permit.*

The Harriman State Park is approximately four miles from the Village and the Ramapo River traverses relatively densely developed land to reach the Park. The Ramapo River corridor is further distant. Potential surface water impacts from the Village upon these resources are not expected to be significant.

Comment 3.6-16: (Letter 48, Geoff Welch, The Ramapo River Committee, June 22, 2015):

If Kiryas Joel Annexation was to occur what zoning exists to protect riparian buffers, wetlands, vernal ponds?

***Response 3.6-16:** State regulations would apply to State-designated wetlands and watercourses, affording protection to these resources and defined adjacent "buffer" areas that occur in the subject area. Federal regulations would apply to federally-designated wetlands, affording protection to these resources. Any future development that may impact a State or Federal wetland would require review under the applicable State or Federal laws. There are no State or other regulations which would regulate vernal pools that may occur in the subject area. The Kiryas Joel code includes provisions for stormwater treatment in Chapter 125 as is required under State law – including provisions to control runoff, flooding and erosion -- which are intended to provide protection of all hydrologically connected surface waters potentially affected by development. The Kiryas Joel code also includes provisions for flood damage prevention in Chapter 77. As an MS4, the Village is responsible for managing the water quality of discharges from the municipal stormwater system in accordance with the State General Permit.*

Comment 3.6-17: (Letter 48, Geoff Welch, The Ramapo River Committee, June 22, 2015):

How would Kiryas Joel's watershed protection zoning compare with that in the New York City upstate watershed lands? How would Kiryas Joel's watershed protection zoning compare with that in the State of New Jersey's Highlands Preservation Zone?

Response 3.6-17: Comparison of the Village regulations to regulations applying to the NYC Watershed and the NJ Highlands is beyond the scope of this DGEIS.

Comment 3.6-18: (Letter 48, Geoff Welch, The Ramapo River Committee, June 22, 2015):

The expansive commercial development, with large parking lots and heavy traffic, build in the Ramapo River Sole Source Aquifer in Orange County is already a concern for water quality. Losing more natural areas for urban development in Kiryas Joel will further impact water quality.

Response 3.6-18: Refer to Responses 3.6-3 and 3.6-14. The proposed annexation lands are partially developed land in a suburban setting and are not contiguous undeveloped forest land. The 507 acres under consideration consist of less than one-square mile in the Ramapo watershed that consists of approximately 112 square miles in NY State. The proposed annexation lands would be developed as both residential and commercial development and be subject to Village zoning as well as all other applicable federal, State and local laws.

Comment 3.6-19: (Letter 48, Geoff Welch, The Ramapo River Committee, June 22, 2015):

Wastewater discharges upstream of the UWNY Ramapo Valley well field and Suffern well field are presently about 8 mgd. Wastewater discharges will increase with new development such as Kiryas Joel and Tuxedo Farms in Tuxedo. River flow at the Ramapo Valley Public Water Supply Well Field during drought is about 8 mgd. USGS studies show that most of the well fields' supply comes from the river during drought. Most of the well fields' supply is thus wastewater during drought. This is a concern for public health.

Response 3.6-19: Refer to Response 3.6-13. The Ramapo River drains an area of 112 square miles in New York (USEPA), including portions Orange and Rockland Counties. The discharge from the Harriman Wastewater Treatment Plant is only a small portion of the large drainage volume that contributes to the Ramapo River drainage system. Flow in this large drainage system is not primarily treated wastewater.

Comment 3.6-20: (Letter 48, Geoff Welch, The Ramapo River Committee, June 22, 2015):

Kiryas Joel Poultry Meat Processing Plant and the Kiryas Joel Meat Market Corporation severely violated the Clean Water Act as cited by the EPA. How can we expect environment enforcement with Kiryas Joel Annexation of more land?

Response 3.6-20: Enforcement of environmental laws will not be affected by the proposed annexation. The following is taken from a letter submitted by Edward Scarvalone who represents Kiryas Joel Poultry Processing Plant: Some of the public comments appear to assume that KJ Poultry is operated or controlled by the Village, and that any environmental compliance issues affecting the poultry plant must be the fault of the Village. This assumption is erroneous. The Village is not responsible for KJ Poultry's conduct, any more than KJ Poultry is responsible for the Village's. Nor does it make sense to argue that the Village has "allowed" KJ Poultry to violate the Clean Water Act, as some commenters have claimed, inasmuch as the state and federal environmental regulators (not municipalities) are generally responsible for enforcement of the Act. (Refer to comment letter 45 and its attachment in FGEIS Appendix E, Willens & Scarvalone, LLP., June 22, 2015)

Comment 3.6-21: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Please indicate whether any of the development within the VKJ has required blasting.

Response 3.6-21: *There is presence of rock outcrops and shallow soils in the study area and site development in some locations may require rock removal. The incidence of such areas and need for specific rock removal techniques would need to be determined on a site by site basis based on site specific development plans.*

Comment 3.6-22: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The NYSDEC response letter indicating the potential presence of sensitive species within the study area has not been provided within the appendices. This correspondence must be provided to ensure that it reflects the NYSDEC's Natural Heritage Program's current database. Furthermore, the DGEIS does not attempt to evaluate the potential presence of other species, based on EIS documents prepared for nearby development projects or based on the ecological habitat found within the annexation area.

Response 3.6-22: *An inquiry was made to the New York Natural Heritage Program, and its response (dated June 23, 2015, and included in FGEIS Appendix C) identifies the following species of concern and habitats in or near the study area:*

- Indiana Bat (*Hibernaculum*) *Myotis sodalis* Endangered Animal
- Northern Long-eared Bat *Myotis septentrionalis* Threatened Animal
- Glaucous Sedge *Carex glaucoidea* Threatened Plant
- Green Rock-cress *Boechera missouriensis* Threatened Plant
- Pitch Pine-Oak-Heath Rocky Summit Community

The NYNHP information further indicates that “Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.”

The annexation of the 507 acres does not represent a “project” that could potentially impact natural resources, including those identified by the NYNHP. The above listed species and vegetative communities have been documented in the area, and would likely require additional study during the review of any specific development proposal for parcels included in the annexation. Considering the sensitivity of the listed species, this type of review would be likely for any development proposal in the local region, whether the parcels are located in the proposed annexation territory or not.

Regarding the specific species identified, the two bat species utilize forest edges throughout the Northeast during the summer months, returning to caves for hibernation through the winter. Development projects are typically required to clear trees only during the winter months as a method of ensuring that no bats are harmed during tree cutting.

Presence or absence of the two plant species, while previously identified outside of the boundaries of the proposed annexation territory, could be surveyed during any review process for future development. It is noted that while plant species may be listed as being of conservation concern, they are only “protected” on State owned lands; private landowners are not required by law to preserve or otherwise protect listed plant species. The plants identified by the NYNHP were found at Schunnemunk Mountain, which is a distance north of the proposed annexation territory.

*Anecdotally, there was mention of timber rattlesnake (*Crotalus horridus*) and dwarf wedge mussel (*Alasmidonta heterodon*) in the area. Based on the habitat requirements*

of the rattlesnake, there is potential for snake activity on the northeastern part of the annexation area, although the NYSDEC did not list this as a species known to occur in the area. Its presence and potential protection measures should be considered during any review of future development plans. The specific habitat requirements for dwarf wedge mussel are poorly understood, but appear to include clear, perennial streams with good water quality. According to the NYSDEC Fact Sheet for dwarf wedge mussels, "Water pollution, including sediments and chemicals from agriculture and other development projects such as golf courses, have been implicated in the mussel's decline. Also, impoundments and channelization may have eliminated the mussel from former habitat." Considering the level of development in and around Kiryas Joel, it is unlikely that any dwarf wedge mussels are living in the drainage basin, and none have been historically identified by the NYSDEC.

Review of aerial photographs of the region does not show the presence of any Pitch Pine-Oak-Heath Rocky Summit Community within the annexation territory.

As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including the Village and/or Town zoning codes. Accordingly, while the DGEIS cannot identify site-specific development proposals that would be presented to the Town or Village in the future, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals, to consider the open space needs of its residents and to be carefully cognizant of important environmental assets of the annexation territory, including sensitive habitats and species of concern in or near the study area. As part of any site-specific review, a wildlife inventory as well as the implementation of species protection measures will need to be considered.

Comment 3.6-23: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS fails to examine the true impact of the annexation on natural resources, by arbitrarily setting the build out of the annexation lands to 2025 and not examining the full build out potential. In addition, it incorrectly concludes that the potential impacts would be the same under the WOA and the WA. The WAA would situate 2,394 more dwelling units than under the WOA but yet concludes that the impact would be the same without any substantive support.

Response 3.6-23: *The DGEIS clearly establishes that annexation would not cause impacts to natural resources in the proposed annexation territory. The DGEIS, however, provides generic assessments of potential effects to natural resources from the projected growth without and with annexation. For the purposes of representing the overall generic assessment of impacts, development disturbance of a site would be expected to encompass most or all of the developable area of that site regardless of the number of dwelling units projected. The number of units (or development density) would determine the extent of impervious surface on that site, although a projection of potential impervious surfaces for undetermined site-specific actions is beyond the scope of the generic EIS. Also refer to response to comments 3.6-3 and 3.6-11.*

As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including the Village and/or Town zoning codes. Accordingly, while the DGEIS cannot identify site-

specific development proposals that would be presented to the Town or Village in the future, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals, to consider the open space needs of its residents and to be carefully cognizant of important environmental assets of the annexation territory.

Comment 3.6-24: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): As a general comment, the DGEIS must acknowledge that the Village of Kiryas Joel (VKJ) is located in the New York-New Jersey Hudson Highlands region, a US Fish and Wildlife Service significant land habitat complex. The DGEIS fails to examine the impacts that would occur to this area of the region. The annexation area is identified as one with moderate conservation, biodiversity, and recreational value. Development at a high density, urban development intensity, is inconsistent with the land's values.

Response 3.6-24: *The Village of Kiryas Joel is located in the New York-New Jersey Highlands region, which was the subject of study in a report published by the US Forest Service in December 2002.¹ The Highlands study area encompassed approximately 1.5 million acres of land of which, by comparison, the annexation DGEIS study area (1,207 acres) covers 0.08 percent. Based on the low resolution mapping in the published report, the Kiryas Joel area was determined to have the following resource values:*

- *Moderate water quality resource value (Figure 2-20)*
- *Moderate to low forest resources (Figure 2-21)*
- *Moderate biodiversity/habitat resource value (Figure 2-22)*
- *Low agricultural resource value (Figure 2-23)*
- *Moderate recreational resource value (Figure 2-24)*

As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including the Village and/or Town zoning codes. Accordingly, while the DGEIS cannot identify site-specific development proposals that would be presented to the Town or Village in the future, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals, to consider the open space needs of its residents and to be carefully cognizant of important environmental assets of the annexation territory, including biodiversity.

Comment 3.6-25: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS must evaluate and determine the potential impact on biodiversity.

Response 3.6-25: *Refer to response to Comment 3.6-3 and 3.6-24.*

Comment 3.6-26: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Given the shallow depth to bedrock for the lands found on the west side of the VKJ, it can be anticipated that blasting will be required to construct multifamily dwellings at the densities being sought. The DGEIS does not examine this impact. Areas that are bedrock-controlled need to be mapped, and an evaluation of impacts conducted.

¹ US Department of Agriculture, Forest Service, "New York-New Jersey Highlands Regional Study: 2002 Update." Publication # NA-TP-02-03. December 2002.

Response 3.6-26: Refer to response to Comment 3.6-21.

Comment 3.6-27: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Orange County has two-foot contour data from which slopes could be estimated using this readily available source of data. A meaningful generic analysis of topography must be performed. At a minimum, the DGEIS can estimate slope categories using soil categories which provide slope ranges. The DGEIS needs to present meaningful information with regard to topographic patterns within the annexation area, and the ability to build high density housing based on slope patterns. It does not provide any analysis of the amount of soil and land disturbance that would occur, based on those slope patterns. The amount of disturbance to accommodate large building footprints on lands containing steep slopes is very different than disturbances on lands that are flat.

Response 3.6-27: *The potential impact of development for the projected growth on the natural environment is stated on DGEIS page 3.6-5: "Development could disturb virtually all of the land in some fashion." Until such time as there is a specific development plan for a specific site, evaluation of the potential impact on the soils and slopes of a site specific action and identification of necessary avoidance or other mitigation is beyond the scope of the generic EIS. Site specific actions will require a SEQRA review of the characteristics and capabilities of the soils. See also response to Comment 3.6-3.*

Comment 3.6-28: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Statements such as "the soils in the study area are very common in Orange County and have no unusual characteristics that significantly affect their use in modern construction" are not meaningful and provide no real information regarding soil patterns and characteristics. While Arnot-Lordstown soils may be "common in Orange County" they are found in areas that are bedrock controlled, largely within the park systems and in areas with very low density development because of the constraints they pose to building development. The DGEIS does not offer a meaningful analysis of soils, soil patterns, and their development potential for uses such as roads, utilities, and large building footprints for buildings typically constructed in the VKJ.

Response 3.6-28: Refer to response to Comment 3.6-27.

Comment 3.6-29: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Rather than provide a general discussion of soil capabilities, submit a soil chart with each soil type, slope range, and development capabilities and limitations for various types of land uses, including large footprint buildings, roads, below ground utilities, recreation, and open space.

Response 3.6-29: Refer to response to Comment 3.6-27.

Comment 3.6-30: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): With regard to the "SCS identifies some of the soils as prime farmland", specifically identify which soils are prime farmland and farmland of statewide importance, and present them on a map – it cannot be determined where these lands are located.

Response 3.6-30: *The following soil types shown in DGEIS Figure 3.6-3 are identified as prime and productive (land capability I, II or III) or farmland of statewide importance:*
BnB Bath-Nassau channery silt loams
ErB Erie gravelly silt loam

MdB Mardin gravelly silt loam
MdC Mardin gravelly silt loam
My Middlebury silt loam
SwB Swartswood gravelly loam

Comment 3.6-31: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS completely fails to identify ecological habitats and the likely range of species that would inhabit the area. There are numerous secondary resources, including previous DEISs conducted in the area, from which the DGEIS can draw relevant information. The DGEIS must describe the existing ecological habit and values associated with same within the annexation lands.

Response 3.6-31: Refer to response to Comment 3.6-3 and 3.6-22.

Comment 3.6-32: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): It is well-established that the Environmental Resource Mapper only shows those areas where a species has already been identified based on studies conducted on other sites. Use of either the NYSDEC Natural Heritage Program (NHP) letters or the Environmental Resources Mapper are not a substitute for conducting additional secondary source reviews of data, and conducting a field walk of the subject area. This conclusion is contained on every NHP letter. The DGEIS must be amended to include specific evaluations of species and habitats in the annexation areas.

Response 3.6-32: As a generic evaluation, it is the intent of the DGEIS to identify potential habitats of species of concern that may exist in the study area, however site specific field studies are not necessary to characterize the conditions in the study area as a whole. An environmental assessment form needs to be prepared for every individual site development plan which would necessitate site specific study relevant for a development at the time it is being planned. Also refer to response to Comment 3.6-22.

Comment 3.6-33: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Conduct site visits to provide a general inventory of the habitat and species present, based on actual field review.

Response 3.6-33: Specific site inspections are beyond the scope of this DGEIS. Refer to response to Comment 3.6-32.

Comment 3.6-34: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): A large area on the west side of the existing VKJ boundaries contains habitat for the timber rattlesnake, a State threatened species. Statements such as “Incidences of Timber Rattlesnake potential habitat have also been reported in the region” are insufficient to document the potential impact on this species, especially since specific habitat known to be important to this species can be identified using secondary resources. The impact of the annexation on the timber rattlesnake must be analyzed.

Response 3.6-34: The annexation action will not cause site disturbance of any kind and, since there is no site specific development plan proposed at this time, the potential impact to specific natural resources has been evaluated generically. The DGEIS acknowledges that development that may occur in the study area as a result of population growth, with or without annexation, may necessitate prior environmental

planning and implementation of appropriate mitigation measures. The extent of such site planning will depend on the specific characteristics of the particular site and its setting that is being considered at the time there is a site plan to be evaluated. Generically, the Village acknowledges that the potential impact on the timber rattlesnake must be analyzed.

Refer to response to Comment 3.6-22.

Comment 3.6-35: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): According to data readily available from the National Map, a large portion of the land area on the west side of Seven Springs Road within the proposed annexation area is identified as “interior cliff and talus” habitat. Its associations include those in the Highlands. Among the sensitive species found in this ecological habitat are: timber rattlesnake (state threatened), American peregrine falcon (State endangered) golden eagle (State endangered), and many other animals, as well as plants (some of which are on federal protection lists). The timber rattlesnake has been encountered in numerous locations in the project vicinity, within comparable habitats. The DGEIS must evaluate the potential presence of species likely to inhabit the annexation habitats, and determine the potential for annexation to impact these species.

Response 3.6-35: Refer to response to Comment 3.6-34.

Comment 3.6-36: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The area on the west side of Seven Springs Road is actually an extension of Schunnemunk Mountain. This area shares the same geology and soils. Unlike the remainder of the VKJ, which mostly grew on areas with Erie and Mardin gravelly soils which were formerly farmed and more conducive to building development, remaining lands on the west side of the VKJ are contained in the Arnot-Lordstown complex, the same conditions found on Schunnemunk Mountain. These soils are difficult and not conducive to high density building development. The DGEIS fails to make any distinction between the soils and their capabilities to accommodate development. The area on the west side of the Village, including the dwellings that exist in the Mountain View Drive neighborhood, is constrained for building development purposes.

Response 3.6-36: Refer to response to Comment 3.6-27.

Comment 3.6-37: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS should also identify the potential presence of wetlands and streams, using aerial photography and hydric soil mapping. These secondary resources can readily be reviewed to identify the potential presence of these resources in the project area. Not all wetland areas have been identified as a result of the limited use of data for the identification of wetlands.

Response 3.6-37: The DGEIS researched available mapped surface water resources and soils for the purpose of identifying the extent of their coverage and identifying any documented significant natural resources. The information provided in the DGEIS (for example Figures 3.6-3, 3.6-4 and 3.6-5) outlines the scope of sensitivity of the annexation territory to development, however this information must be augmented by site-specific investigations wherever there is a specific development project being considered for a specific parcel of land. As the commenter notes, additional resources may also be discovered at the site. The potential environmental effect of that

development on the natural resources of the site, once the particulars of a project design can be identified, can then be evaluated to formulate the appropriate measures that will mitigate such impact at the site plan level. At the present time, however, there are no site-specific development proposals under review by the Town in the annexation territory. That is the purpose of the subsequent SEQR review that the DGEIS states on page 2-13: "Subsequent to any approved annexation, the use and development of lands annexed to the Village will ... be subject to the appropriate SEQRA review as well as all other relevant local, State and federal laws and regulations."

As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including the Village and/or Town zoning codes. Accordingly, while the DGEIS cannot identify site-specific development proposals that would be presented to the Town or Village in the future, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals, to be carefully cognizant of important environmental assets of the annexation territory including regulated wetlands and stream corridors.

Comment 3.6-38: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Please identify whether any of the waterbodies or watercourses identified in the DGEIS are impaired waterbodies. According to the NYSDEC Waterbody Inventory Data Sheets, Highland Brook is identified as having "minor impacts". Also, the watershed locations in the annexation areas and the streams to which these watersheds contribute need to be mapped. A map of the streams referenced in the DGEIS is not provided.

Response 3.6-38: *DGEIS Figure 3.6-4 shows the streams in the study area mapped by NYSDEC. Additional FGEIS Figure 3.6-6 (at the end of this section) shows the major watershed boundary and the Index Number for streams in the study area. All of the watercourses in the annexation study area are Class C water quality and none of the water bodies or watercourses are listed as impaired in New York State's current List of Impaired/TMDL Waters.²*

Comment 3.6-39: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS does not present any existing water quality data for the streams to which high density development would contribute. Please provide water quality data for the streams and the potential impact to development that would result. The DGEIS indicates that each existing single family parcel within the R-1.0 zoned areas can accommodate additional building development. If each lot is redeveloped, would they be subject to a SPDES Permit? What regulations exist in the Village to ensure that the redevelopment of each lot, and stormwater runoff from each lot, will be mitigated? There are a substantial number of dwellings located here, and the impact to stormwater quality and quantity must be evaluated.

Response 3.6-39: *As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of the annexation territory will be subject to all federal, State and local laws, including SEQRA and the State Stormwater Permit for Construction Activity as well as the Village and/or Town zoning codes. As a generic evaluation, it is the intent of the*

² The Final New York State 2014 Section 303(d) List of Impaired Waters Requiring a TMDL/Other Strategy. September 2014. http://www.dec.ny.gov/docs/water_pdf/303dlistfinal2014.pdf.

DGEIS to identify the general characteristics that may exist in the study area, however site specific identifications are not necessary to characterize the conditions in the study area as a whole as the DGEIS does. An environmental assessment form needs to be prepared for every individual site development plan which would necessitate site specific study relevant for a development at the time it is being planned.

Regulations relating to stormwater management and treatment of runoff on development sites promulgated by the State of New York apply to any development or redevelopment including land in the study area. Every individual site development proposal will need to evaluate the specific existing conditions and include applicable stormwater mitigation measures to avert the potential impacts of that development. As an MS4, the Village is responsible for managing the water quality of discharges from the municipal stormwater system in accordance with the State Municipal Separate Storm Sewer Systems Permit and the State Stormwater Permit for Construction Activity.

See also responses to comments 3.6-17 and 3.6-1.

Comment 3.6-40: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): The DGEIS fails to meet the requirements of the scoping outline which requires: “Estimate future development disturbance and potential implications for natural resources in annexation lands.” No such estimate is provided.

Response 3.6-40: The potential impact of development for the projected growth on the natural environment is stated on DGEIS page 3.6-5: “Development could disturb virtually all of the land in some fashion, either resulting in temporary or permanent removal of vegetation.” Such disturbance could affect any existing natural resource, for which every individual site development proposal will need to evaluate its specific impacts and include applicable mitigation measures to avert the potential impacts of that particular development.

Comment 3.6-41: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Please identify all stormwater SPDES violations within the Village of Kiryas Joel within the past five years, the cause for the violation, and how it is being remedied.

Response 3.6-41: Such information is beyond the scope of the DGEIS.

Comment 3.6-42: (Letter 50, John Ebert, Chairman, Monroe Conservation Commission, June 20, 2015): Out of basin transfer of water is not a “sustainable” or green building practice, according to numerous environmental organizations. In this instance, the VKJ is consuming, or holding for storage, twice the amount of water required to service the Village, as agreements with the NYCDEP require that an equivalent amount of water that is being used from the NYCDEP systems be developed through its Village resources.

Response 3.6-42: The Village plans to connect to the NY City water supply Catskill Aqueduct. That water is drawn from the Ashokan Reservoir and drainage area in Ulster County. New York City and communities in the path of the aqueduct have historically tapped this water supply.

The NYCDEP requires users of the Aqueduct to have 100 percent back-up water supply in the form of groundwater wells. The Village is in the process of permitting wells to meet that requirement. The groundwater will only be tapped during times when the Aqueduct

water is unavailable such as during times of maintenance. The Village would not consume twice its water demand, but rather the water is available, when needed.

Comment 3.6-43: (Letter 51, Stefanie Beemer, Monroe, June 22, 2015): With the majority of the annexation in environmentally sensitive areas, there is a need of clarification. While at the time, there is no “official developments” tied to this annexation, there are future planned developments after approval of this annexation. The annexation area includes areas within the freshwater wetland buffer zone (south of Coronet Lake and west of Forest Road Lake) as per Figure 3.6-4 of the DGEIS and will require permits. Since work would take place within regulated areas, permits from the NYSDEC per NYSDEC Article 24 as well as permits and approvals from other regulatory agencies. Regulatory agencies issuing permits or approvals could be involved agencies in the SEQR process. Because of the involvement of permits and approvals by outside agencies not including Lead Agency, the annexation should not be approved or denied solely by elected officials of the Kiryas Joel Village Board and the Town of Monroe Board members.

Response 3.6-43: *Much of the annexation territory is shown in a potentially environmentally sensitive area according to Figure 3.6-4, which was generated from Orange County GIS information. The figure also shows land surrounding a NYSDEC wetland in Kiryas Joel that is regulated by the State as a wetland adjacent area. Figure 3.6-5 further shows mapped wetlands including Coronet Lake that are afforded protections under State and federal regulations. The commenter is correct that any development proposed in these areas may need permits from agencies other than the lead agency for the annexation action. That is the purpose of the subsequent SEQR review that the DGEIS states on page 2-13: “Subsequent to any approved annexation, the use and development of lands annexed to the Village will ... be subject to the appropriate SEQRA review as well as all other relevant local, State and federal laws and regulations.”*

Comment 3.6-44: (Letter 51, Stefanie Beemer, Monroe, June 22, 2015): Wetland review in Section 3.6 of the DGEIS was based on GIS mapping provided by Orange County and the NYSDEC’s Environmental Resource Mapper. These types of maps do not necessarily reflect current conditions. A field survey by wetlands and other ecologists is needed to accurately determine wetlands and other sensitive resources. Was a field survey performed by certified ecologist to identify wetland and environmentally sensitive areas and confirm the accuracy of information? Were areas listed as protected species areas physically identified? If so, when were these performed and by whom?

Response 3.6-44: *Refer to response to Comment 3.6-37.*

Comment 3.6-45: (Letter 51, Stefanie Beemer, Monroe, June 22, 2015): Nowhere in the DGEIS is FWS discussed nor any reference to inquiry letter sent to NYSDEC or FWS to confirm wildlife and habitat impacts. Have surveys of the habitat been performed by environmental experts?

Response 3.6-45: *Refer to response to Comment 3.6-22.*

Comment 3.6-46: (Letter 52, Suzanne Bellanich, Monroe, June 22, 2015): Current zoning of the 507 acre annexation parcel is sustainable through use of private septic systems. The sole purpose of the 507 acre annexation request is to allow for rezoning of the land to support high density development. High density development cannot be sustained through private septic

systems. High density development would require a larger sewage treatment plant and force the waste downstream. We know the Ramapo River cannot take the impact of this effluent. The Ramapo River cannot bear the brunt of any expansion due to its current state of the highly salinized effluent and raw chicken waste originating from the KJ Chicken processing plant. The land and waterways cannot support high density development.

Response 3.6-46: *The extent to which the land and water resources can support additional development will need to be determined for every new development proposed so as to demonstrate for the purpose of obtaining the required permits that such development can be accommodated, or to identify the limits of such development based on the limits of the capacity of the resources.*

Comment 3.6-47: (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): The document does not examine how potentially adverse impacts to natural resources (e.g. soils, wildlife, habitat, and wetlands) in the proposed annexation territory will be avoided, minimized, or mitigated. There is no estimate of the disturbance of various resources and no assessment of cumulative impacts as a result of directing growth to this area.

Response 3.6-47: *Refer to response to Comment 3.6-3.*

Comment 3.6-48: (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): There is no comprehensive assessment of the suitability of the annexation territory to accommodate the projected growth. For example, the topographical map provided does not quantify/characterize that portion of the annexation territory where slopes may exceed 15% or 25% making development of the areas problematic. Similarly, the document lacks sufficient detail/illustration of the soil types of the annexation territory. It does not provide a breakdown of the target area by soil type, making it difficult to make an assessment of the land areas suitability for development. The document does note that "The SCS identifies potential limitations for these soils related to excavations and development of roads and buildings due to their physical and chemical characteristics" (p 3.6-2 of SGEIS). The assumption is that the annexation territory has the capacity (by virtue of zoning) to accommodate growth under the current zoning scheme. There is no justification provided as to how a higher density is achieved under a new zoning scheme that the Village will propose. This is a critical issue and a land use plan should be developed to demonstrate the carrying capacity of the annexation lands to accommodate this growth. A comprehensive assessment should be developed to understand the impacts and substantiate the planned annexation.

Response 3.6-48: *The DGEIS assumes that the annexation territory has the capacity (by virtue of zoning) to accommodate the projected growth for the purposes of illustrating the scope of possible impacts of growth. The DGEIS, however, does not assume a developable carrying capacity of the land, or even a capacity for the projected growth, without need for a site specific impact analysis and design of appropriate mitigation measures that are feasible and reasonable for every development project that is proposed in the future. Every proposed project will need to demonstrate how it can be developed within the capacity of the natural resources to accommodate it. Also refer to response to Comment 3.6-27.*

As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of

the annexation territory and any site specific project will be subject to all federal, State and local laws, including SEQRA and the Village and/or Town zoning codes.

Comment 3.6-49: (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): Stormwater Impact: The annexation territory will be developed at a higher density under the annexation proposal. Provision of stormwater management measures can become problematic at higher densities especially on sites with development constraints such as those of the annexation territory. The stormwater impact/mitigation possibilities should be discussed in relation to the annexation proposals.

Response 3.6-49: Refer to responses to comments 3.6-39, -17 and -1.

Comment 3.6-50: (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): Wetland Impacts: The DGEIS states that there are no wetlands within the annexation territory. This is not the case; the wetlands map in Section 3.6 of the DGEIS notes five areas designated as wetlands by the National Wetlands Inventory. Additionally, the annexation territory may contain numerous locally-regulated wetlands and/or areas of hydric soils smaller than 12.4 acres, which would need to be delineated in order to accurately assess and evaluate the potential for adverse impacts to wetland areas. There are also wetlands within the existing boundary of the Village, designated both by the National Wetlands Inventory (NWI) and the New York State Department of Environmental Conservation (NYSDEC). Development of the annexation territory can put additional strain on all wetlands. The DGEIS should be amended to reflect the same and the impacts discussed both within the annexation territory and the Town of Monroe consistent with the Town of Monroe Local Law entitled "Local Freshwater Wetlands Local Law of the Town of Monroe in Chapter 56 of that Town's Code. The clearing of vegetated areas and the creation of impervious surfaces can lead to increased volumes of stormwater runoff draining into wetland areas; stormwater runoff in developed areas typically contains sediment and pollutants such as road salt and vehicle fluids, which can significantly impact the health and ecology of a wetland.

Response 3.6-50: Refer to responses to Comments 3.6-1 and 3.6-43.

Comment 3.6-51: (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): In addition to concerns of site-specific wetland identification and the overall threats and generalized impacts to wetlands that will parallel development of the annexation territory, it remains critical to evaluate the magnitude and potential extent of these impacts given the locally-significant framework of wetland protection in the Town of Monroe. Given the conveyed importance and comprehensive regulation of wetlands throughout Chapter §56 of the Town Code of the Town of Monroe, the annexation of 500+ acres of Town territory into the Village of Kiryas Joel would effectively reduce the extent of wetland areas that are regulated by the Town. The annexation of territory would thus serve to enable degradation of wetlands within and surrounding the annexation territory, and would also subsequently impact the surface water resources and drainage basins that are hydrologically connected to those wetlands. The DGEIS should address and mitigate these impacts.

Response 3.6-51: Lands meeting the definition of a Town-regulated wetland are not mapped by the Town and therefore there is no available information for the DGEIS to determine the possible extent of such wetlands in the annexation area. As shown in DGEIS Figure 3.6-5, there are a number of mapped Federal wetland areas in the annexation territory which would require further review for any site-specific action under consideration. The Kiryas Joel code includes provisions for stormwater treatment in

Chapter 125 as is required under State law – including provisions to control runoff, flooding and erosion -- which are intended to provide protection of all hydrologically connected surface waters potentially affected by development. The Kiryas Joel code also includes provisions for flood damage prevention in Chapter 77. As an MS4, the Village is responsible for managing the water quality of discharges from the municipal stormwater system in accordance with the State General Permit. Any future development that may impact a State or Federal wetland would require review under the applicable State or Federal laws as well as SEQRA.

The DGEIS addresses the mitigation of water impacts from future development, stating on page 3.6-5: Development ... will increase the impervious surface coverage thereby increasing the rate and volume of stormwater runoff in the future in the absence of appropriate stormwater controls. ... To offset these changes, any future development will need to include the design and implementation of appropriate stormwater management infrastructure to properly control stormwater runoff and provide water quality treatment.

Comment 3.6-52: (Letter 54, David E. Church, AICP, Commissioner, Orange County Department of Planning, June 22, 2015): Impacts to the Ramapo River goes unaddressed in the DGEIS. The Village wastewater system, which will be serving the bulk, if not all, of the development occurring in the proposed annexation territory, drains into an unnamed tributary of the Ramapo River. The unnamed tributary has been shown to have high levels of salinity, a degradation of the water quality that can be traced directly to point and nonpoint source pollution occurring within the current Village boundary. Additional development in the annexation territory would further degrade water quality in the unnamed tributary and farther downstream in the Ramapo River watershed.

There is also scientific data that indicates that chicken have a high degree of antibiotic resistant E. coli. Given the increase in population attributable to annexation and the fact that the Kiryas Joel chicken processing plant indirectly discharges treated effluent by way of its sewage treatment plant into the Ramapo River, this potential health and environmental hazard should be thoroughly analyzed in the DGEIS.

Response 3.6-52: *An analysis of antibiotic resistant E.coli is beyond the scope of this DGEIS. Discharges from the Village WWTP are subject to a SPDES permit and regulated by NYSDEC. The Village WWTP is operated by the OCSD#1 and currently meets its SPDES Permit effluent limits. The Village is committed to maintaining and improving plant operations. The Village has recently implemented facility upgrades that have improved operation of the plant and improved effluent water quality. These improvements include: Rotating Biological Contactor (RCB) improvements in 2010, trunk sewer, lift station and headworks screening improvements in 2014, and filter backwash storage and handling improvements in 2014. In addition, water use at the privately-owned poultry plant in the Village has been reduced by approximately one-third (2011 to 2012).*

The following is taken from a letter submitted by Edward Scarvalone who represents Kiryas Joel Poultry Processing Plant: Some of the public comments appear to assume that KJ Poultry is operated or controlled by the Village, and that any environmental compliance issues affecting the poultry plant must be the fault of the Village. This assumption is erroneous. The Village is not responsible for KJ Poultry's conduct, any more than KJ Poultry is responsible for the Village's. Nor does it make sense to argue that the Village has "allowed" KJ Poultry to violate the Clean Water Act, as some

commenters have claimed, inasmuch as the state and federal environmental regulators (not municipalities) are generally responsible for enforcement of the Act. [Comment letter 45, Willens & Scarvalone, LLP., June 22, 2015]

Comment 3.6-53: (Letter 55, Sheila Conroy, June 22, 2015): What are the mitigations for visual impacts for the higher elevations and the sloped areas of 25% and more. There is no reference in the mitigation section of how these areas will be treated or be protected---only that they can be built on using proper construction techniques.

Response 3.6-53: *The DGEIS states on page 3.7-3: "Without or with annexation, future development could disturb virtually all of the developable land in some fashion, either resulting in temporary or permanent removal of vegetation and addition of new buildings and other facilities. As vacant land is cleared to make way for new development, the character of the local landscape will change from rural to suburban. ... There are higher topographic locations that, once cleared of trees, would no longer provide a wooded backdrop to views from particular locations of nearby roads or nearby private property locations. Development on higher topography, when planned, should be evaluated at the site plan review stage to identify opportunities for buffering of views that would otherwise be opened from nearby vantage points." That is also the time that specific site plan proposals should be reviewed relative to treatment of steep slopes. Refer to response to Comment 3.6-27.*

Comment 3.6-54: (Letter 55, Sheila Conroy, June 22, 2015): There is a big concern for how wetlands will be handled within the annexation area. Wetlands are important for recharge of water in the area, to control run-off and flooding and to filter sediment and other debris during times of heavy rainfall. Since there have not been public meetings regarding site plans within the existing Village so that people can see how wetlands have been protected or managed and there are no statements in the mitigation section on this topic, there is concern about how wetlands will be protected in the annexation area.

- 1) Where can approved site plans be viewed for existing development to see how wetlands have been mapped and handled?
- 2) Is the Army Corps of Engineers or the DEC contacted about wetlands under their jurisdictions or are they simply ignored and filled in?
- 3) Since we do not know what has happened within the existing Village borders, it raises serious questions about what practices will be followed if more wetlands are incorporated into the Village via annexation.

Response 3.6-54: *Refer to response to Comment 3.6-51.*

Comment 3.6-55: (Letter 55, Sheila Conroy, June 22, 2015): Historically, open space and natural resources (components of Smart Growth) have been largely ignored under the existing Village development pattern. As stated previously, areas are clear cut, high density multi-story dwellings are built on hilltops with massive retaining walls and with very little separation between structures. As part of this study, a computer model should be developed to show the land to be annexed as it could be developed under current Monroe zoning and how it could be developed using the typical Village pattern. This visual comparison would show so much more than words could describe. It does not matter that there are no specific plans. One only need reproduce the development style that exists within the current Village and superimpose this onto the annexation lands.

Response 3.6-55: *Comment noted. The DGEIS description on page 3.7-3 (repeated above in Response 3.6-53) provides sufficient information for the purposes of the SEQRA review of possible mitigation of visual impacts, which appropriately would occur at the time there are site specific development plans being proposed.*

Comment 3.6-56: (Letter 55, Sheila Conroy, June 22, 2015): These are generic mitigations that likely will not occur, based on past history. One only needs to look at the existing development pattern. Is there any expectation that the Village will alter its intense development style after 38 years of growth? Practically, these mitigations do not exist in the existing Village and they are unlikely to exist in the annexed lands

Response 3.6-56: *Comment noted. Mitigation of potential impacts to the greatest extent practicable is the role of SEQRA in the site plan review process.*

Comment 3.6-57: (Letter 55, Sheila Conroy, June 22, 2015): Gonzaga Park is part of the proposed annexed land. Since this is a County park, the annexation lines should be redrawn so as to exclude any part of Gonzaga Park.

Response 3.6-57: *The use and disposition of the County land will remain with the County regardless of the annexation action and will not be affected if the annexation is approved.*

Comment 3.6-58: Letter 56, Bob Dillon, June 22, 2015): The SEQRA documents make no mention of the adverse impacts of pumping of millions of gallons water per day from additional well fields destined for eventual discharged for to the Ramapo River. Cross-basin export of millions of gallons of water per day (MGD) from the NYC system and pumping additional MGD from additional well fields will result in higher than average flows in the Ramapo River and will increase the risk to downriver communities during extreme weather events such as Hurricane Irene.

Response 3.6-58: *The Village's current Water Supply Permit is limited to 1.93 million gallons per day and the modified permit under review by the NYSDEC is for 2.54 mgd. This is an incremental increase and the Village's water demand is expected to incrementally increase as the Village population grows over time. While this water volume may appear large, it must be viewed in the context of the overall Ramapo River watershed area which consists of 112 square miles in New York according to the USEPA. In such a large hydrologic system, new water added is balanced by the water removed from the system through increased water use by municipalities, loss through evaporation from new development and irrigation and other transfers. The water added to the Ramapo River by the Village will not result in additional downstream flooding risk.*

Comment 3.6-59: (Letter 59, Robert Kecskes, June 22, 2015): The Ramapo River is one of the most utilized rivers in New York. During drought, most of the river's freshwater is removed as a result of inter-basin transfers and consumptive uses (e.g., irrigation) of ground water. At these times, the river is comprised of mostly wastewater. This phenomenon is expected to become more severe as development occurs in Kiryas Joel, and if the nearby properties are annexed. It will also become more severe as other developments and their consequent hydro-modifications occur in the watershed.

A major reason that the river has reached the above condition is that decisions on land use, water supply, wastewater, etc., are made on an individual and primarily local basis. The past

accumulative effects of these decisions are typically ignored, and the effects of future activities are generally not considered on a collective basis. The Kiryas Joel decision discussed in the EIS is one more example of this lack of assessing total cumulative impacts on the river, its tributaries, and its ground water resources.

The EIS should acknowledge this major discrepancy, and encourage the utilization of an integrated water resource management plan for the Ramapo River watershed. During the interim, the EIS should be placed on hold until the effects of the expanded OCSD#1 plant discharge can be evaluated on downstream water supplies of UWNY and Suffern's well fields. This evaluation will need to consider low streamflow conditions during future drought conditions (i.e., extreme drought in let's say at the end of a 20 year planning period) that factor in projected depletive and consumptive water uses, amount of wastewater comprising the stream during these periods, chemical and biological composition of the wastewater, nonpoint source pollution concentrations from a storm during drought conditions, water quality entering the wells, and water quality after conventional treatment. If, after conventional treatment, the water does not meet drinking water standards, appropriate upgrades to the treatment plant and nonpoint source controls should be evaluated and implemented so that the well fields can produce water that meets the standards.

***Response 3.6-59:** Development of an integrated water resource management plan for the Ramapo River is beyond the scope of this DGEIS and the annexation action.*

Comment 3.6-60: (Letter 67, Richard J. Pearson, PE, & Robert B. Peake, AICP, June 18, 2015): Under Section 3.6.2 of the DGEIS, the statement is made that under the growth scenario described in the project description (without and with annexation), disturbance of the land would result from construction activities to much the same degree. This statement is not supported by a comparison of the existing Town of Monroe zoning regulations which limits unit density and has various bulk regulations in place which limit the extent of site disturbance activities. A comparison with the denser development permitted under KJ zoning should be provided to determine if the degree of land disturbance following annexation would change versus the no annexation scenario.

***Response 3.6-60:** The Town's bulk regulations do not limit the extent of potential site disturbance but limit the amount of impermeable coverage. Other municipal requirements may limit site disturbance of any particular site but for the purposes of comparison, the DGEIS assumed that development in the annexation area would follow the example of the Forest Edge and Vintage Vista projects under the Town's regulations or the Atzei Tymurim Gardens and Beirach Moshe Gardens project under the Village's regulations – projects that are described in DGEIS section 3.1.2. Based on inspection of aerial photographs of these project sites, the extent of construction activities appear to comparably the same.*

Comment 3.6-61: (Letter 68, Gale Pisha, Sierra Club Lower Hudson Group, June 22, 2015): The addition of wastewater to the Ramapo River will have negative implications for the water supply of Rockland County. The projected population increase will have major impacts for water supply and wastewater release. To meet projected future water supply needs, the DGEIS states that KJ will connect to the Mountainville well field and eventually the New York City Aqueduct. A pipeline is being constructed which will bring water from Mountainville to the Village of KJ in 2015, and the DGEIS projects that the remainder of the pipeline to New Windsor to connect to the aqueduct will be completed by 2017. However, these plans are indefinite, since additional funds are needed to complete the pipeline, and approval is needed by New

York City. The DGEIS states, "The allowable water taking from the aqueduct will be determined by the NYCDEP at a future time when approvals and infrastructure are *in place* to connect to the aqueduct." (p.3.5-4). With the possibility that funding will not materialize nor approvals be granted by NYC, there is the distinct possibility that the Mountainville well field will be the primary water source for this future increase in need. SCLHG believes that pumping from Mountainville will deplete the Woodbury Creek during low flow times, and that the diversion of this water from the Moodna basin to the Ramapo basin when it is discharged to the river as wastewater will have a negative impact on the Moodna basin.

Response 3.6-61: *Refer to Responses 3.5.7-2, 3.5.7-7 and 3.5.7-29. See also Responses 3.6-2 and 3.6-58.*

Comment 3.6-62: (Letter 69, Daniel Richmond, Zarin & Steinmetz, June 22, 2015): The DGEIS asserts that, were the Proposed Annexation approved, Town Code provisions intended to protect sensitive resources, such as Chapter 56 ("Wetlands"), would no longer be applicable. (DGEIS at 3.6-7.) Again, the Village cannot lawfully evade Town Code requirements through the annexation process. The GEIS must assess the potential adverse impacts of this evisceration of these Town Code requirements. Moreover, Section 3.6 of the DGEIS was apparently based on mapping provided by Orange County and DEC, which do not necessarily reflect current conditions. In connection with the preparation of the SGEIS, a field survey is required to accurately determine wetlands and other sensitive resources. The DGEIS also does not indicate if both the U.S. Fish and Wildlife Service and DEC were contacted in connection with wildlife and sensitive habitats in the territories at issue.

Response 3.6-62: *Annexation does not avoid or eviscerate zoning laws. Once annexation is formally completed, the lands added to a receiving municipality will be subject to that municipality's local laws, including its zoning law. Further, annexation is an established right of local governments to add territory provided for in the bill of rights for local governments in Article IX of the NYS Constitution, subject to consideration of the benefits or detriments of the annexing municipality, the territory proposed to be annexed and the remaining municipality from which such lands would be taken. Further, any future development action in the annexation territory remains subject to all applicable federal and State, including SEQRA.*

Specifically regarding wetlands and other surface waters, State and Federal jurisdiction would remain. Refer to responses to Comments 3.6-16 and 3.6-51. The DGEIS acknowledges that future development on the annexation lands may affect surface waters including wetlands, and therefore identifies impact-reducing measures on pages 3.6-5 and -6.

Until such time as there is a site specific development plan, evaluation of the potential impact on wetlands and other sensitive resources of a site specific action, and identification of necessary avoidance or other mitigation, is beyond the scope of the DGEIS. Refer to response to Comment 3.6-37.

An inquiry was made to the New York Natural Heritage Program, and its response is included in FGEIS Appendix C. See response to Comment 3.6-22.

Comment 3.6-63: (Letter 75, Richard Timm, June 22, 2015): What would the impact be if shown on a current topographical map? (The map in the DEIS is so old it doesn't even show the Route 6 extension.)

Response 3.6-63: *The annexation action will not cause site disturbance of any kind and, since there is no site specific development plan proposed, the potential impact to specific natural resources has been evaluated generically. The area of concern of the DGEIS study is the annexation territory as outlined on DGEIS Figures, including several figures in section 3.6. (The USGS topography shown in several figures is valid for the purposes of the DGEIS.) The DGEIS acknowledges that development may occur in the study area as a result of population growth, with or without annexation, which would necessitate prior environmental planning and implementation of appropriate mitigation measures.*

Comment 3.6-64: (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): The DGEIS begins to go astray and deviate from portraying an accurate picture of potential future conditions, however, when it asserts that the type and amount of disturbance that would result would essentially be the same with or without the proposed annexation. Clearly, that is an inaccurate and unsupported conclusion. First, if the Annexation Petition is approved, the land in question will become part of the Village of Kiryas Joel and all proposed land development activities will be under the Village's jurisdiction. Elsewhere in the DGEIS, it was previously noted that the newly annexed lands would need to receive a zoning designation that is likely to be one of the two mapped districts included in the Village's Zoning Law (either "R" or "C", until such time that a "PUD" designation may be chosen instead). The DGEIS also acknowledges that the Village's zoning regulations do not specify a maximum density, unlike the regulations that currently govern land development in the Annexation Territory under the Town of Monroe Zoning Law. Consequently, it is also reasonable to conclude that properties in the Annexation Territory will be subject to much more intense development pressure if the Annexation Petition is approved and some of the natural resources located in the Annexation Territory (e.g., wetlands, trees) may receive much less environmental protection.

Response 3.6-64: *Refer to responses to comments 3.6-60 and -62.*

Comment 3.6-65: (Letter 77, Joanne P. Meder, AICP, Meder Consulting Services, June 22, 2015): The Town of Monroe has wetlands regulations and the Village of Kiryas Joel does not. Similarly, the Town of Monroe has specific provisions concerning the protection of trees as part of subdivision development, and the Village of Kiryas Joel does not have comparable provisions. The only wetland resources that are currently regulated in the Village are those that are defined as State- or Federally-regulated wetlands. The DGEIS should be supplemented with an analysis of whether the Annexation Territory contains wetlands that would be regulated if that land remains in the Town of Monroe, and should further demonstrate that there would be no impact to locally regulated wetlands by removal of the Annexation Territory from the regulatory jurisdiction of the Town of Monroe or, in the alternative, should analyze the impacts of deregulating any locally regulated wetlands that might become part of the Village of Kiryas Joel if the Annexation Petition is approved. The DGEIS should also include a more complete analysis of potential impacts on trees in the Annexation Territory.

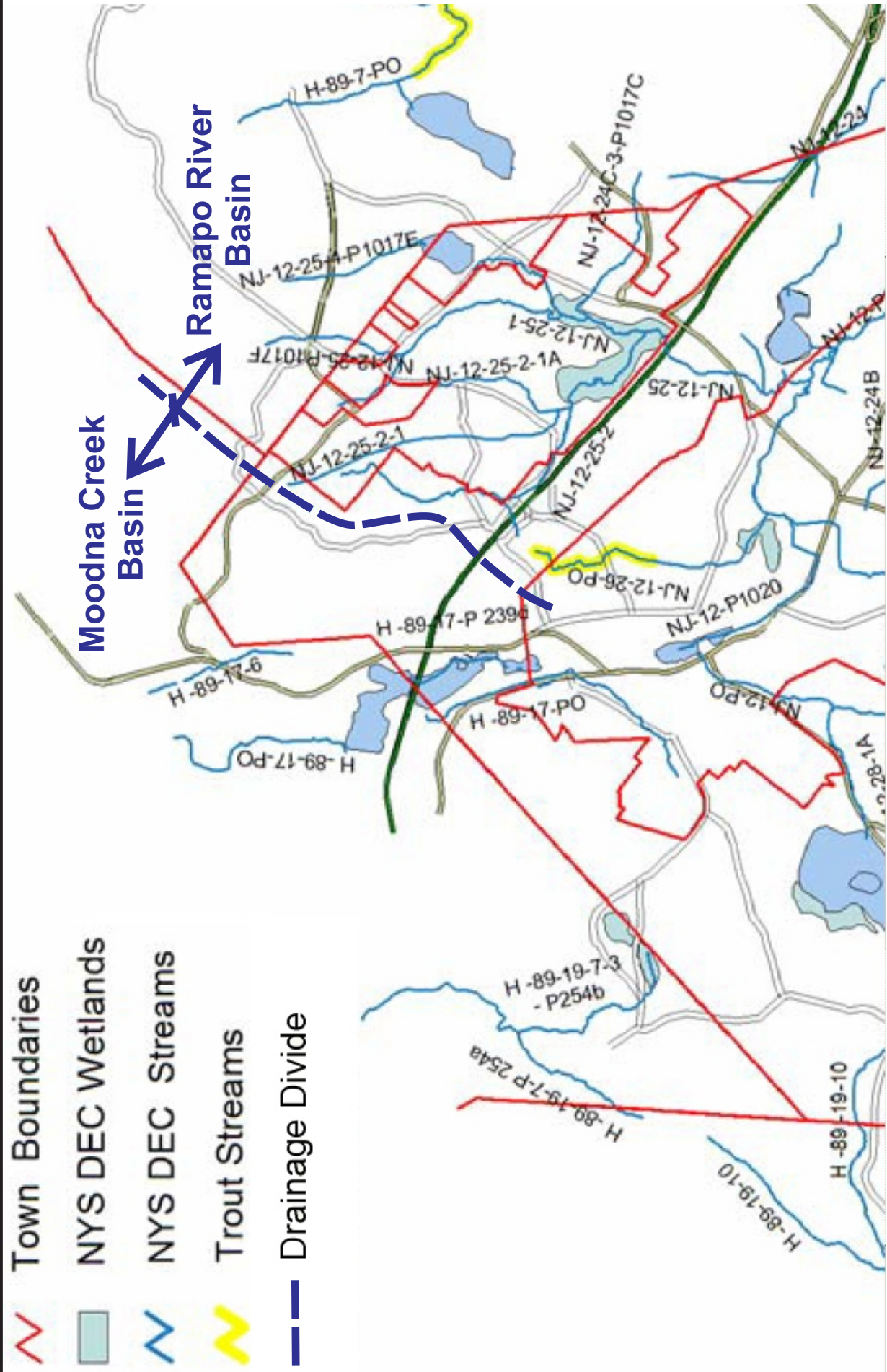
Response 3.6-65: *Refer to response to Comment 3.6-51 and 3.6-62 regarding wetlands protection and the potential impact on trees from future development. An analysis of potential impacts on trees in the annexation territory is beyond the scope of the DGEIS.*



As noted elsewhere, the annexation petition was not accompanied by a development project or plan for the annexation territory. Any such development plan for all or a part of the annexation territory or site specific development will be subject to all federal, State

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and local laws, including SEQRA and the Village and/or Town zoning codes. Accordingly, while the DGEIS cannot identify site-specific development proposals that would be presented to the Town or Village in the future, it does provide the background to alert future decision-makers, including the Village Board, Planning Board and Zoning Board of Appeals, to be carefully cognizant of important environmental assets of the annexation territory including wetlands and trees.



-  Town Boundaries
-  NYS DEC Wetlands
-  NYS DEC Streams
-  Trout Streams
-  Drainage Divide

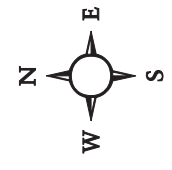


Figure 3.6-6: Streams and Waterbodies
 Kiryas Joel Annexation
 Town of Monroe & Village of Kiryas Joel
 Orange County, NY

Source: Town of Monroe Comprehensive Plan Update, May 2008, Figure VI-4 [sic]
 Not to scale