



Initial Review: \_\_\_\_\_  
Updated On: \_\_\_\_\_  
Complete: \_\_\_\_\_  
Official Use Only

### Coastal Zone Management Act Federal Consistency Form

This document provides the Delaware Coastal Management Program (DCMP) with a Federal Consistency Determination or Certification for activities regulated under the Coastal Zone Management Act of 1972, as amended, and NOAA's Federal Consistency Regulations, 15 C.F.R. Part 930. Federal agencies and other applicants for federal consistency are not required to use this form; it is provided to applicants to facilitate the submission of a Consistency Determination or Consistency Certification. In addition, federal agencies and applicants are only required to provide the information required by NOAA's Federal Consistency Regulations.

<b>Project/Activity Name:</b>	Replacement of Verizon Copper across Cedar Creek on SR 36 Cedar Beach Road, Milford DE
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**I. Federal Agency or Non-Federal Applicant Contact Information:**

Contact Name/Title: George Zang

Federal Agency Contractor Name (if applicable): Verizon Delaware LLC

Federal Agency: USACE Philadelphia District  
(either the federal agency proposing an action or the federal agency issuing a federal license/permit or financial assistance to a non-federal applicant)

Mailing Address: Verizon Delaware LLC, 2 Industrial Lane

City: Milford State: DE Zip Code: 19963

E-mail: george.w.zang@verizon.com Telephone #: (302) 422-1238

**II. Federal Consistency Category:**

- Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)
- Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)
- Federal Financial Assistance (15 C.F.R. Part 930, Subpart F)
- Federal License or Permit Activity (15 C.F.R. Part 930, Subpart D)
- Federal License or Permit Activity which occurs wholly in another state (interstate consistency activities identified in DCMP's Policy document)

**III. Detailed Project Description (attach additional sheets if necessary):**

Verizon proposes to install a new 100-pr overhead copper line on new 50-foot tall poles over Cedar Creek in Milford, Delaware. New poles will be installed in uplands on either side of the creek. The new cable will be installed south of the SR 36 bridge. The crossing will be 163 feet from bank to bank and will be at a height of 33 feet over the channel. A site visit performed on June 6, 2023 did not identify any wetlands in the vicinity of the crossing.

The existing submarine cable will be removed by cutting the cable on one side of the channel and pulling it out of the channel from the opposite bank. The existing cable was laid on the channel bed in 1973, and not directionally drilled. No mechanized equipment is planned to be in the waterway.

**IV. General Analysis of Coastal Effects** (attach additional sheets if necessary):

This project removes an aging utility line from the bed of Cedar Creek and places utility poles in uplands on either side of the creek with an overhead line crossing over the creek. Coastal effects are not anticipated.

A site plan is included as an attachment to this application.

**V. Detailed Analysis of Consistency with DCMP Enforceable Policies** (attach additional sheets if necessary):

**Policy 5.1: Wetlands Management**

The project will not impact wetlands. A wetland delineation memo is included as an attachment to this application.

**Policy 5.2: Beach Management**

This project is not located on or near a beach. A site location map is included as an attachment to this application.

**Policy 5.3: Coastal Waters Management** (includes wells, water supply, and stormwater management. Attach additional sheets if necessary)

This project does not impact coastal waters.

**Policy 5.4: Subaqueous Land and Coastal Strip Management**

This project will have only a minor temporary disturbance to subaqueous land, as the existing utility line is pulled from the Cedar Creek channel bed. No mechanized equipment will be used in the channel.

**Policy 5.5: Public Lands Management**

This project will not have an impact on public lands. All work will be within existing or required right of way.

**Policy 5.6: Natural Lands Management**

This project will not have an impact on natural lands. All work will be within existing or required right of way.

**Policy 5.7: Flood Hazard Areas Management**

This project does not pose a flood hazard.

**Policy 5.8: Port of Wilmington**

This project is not located at the Port of Wilmington.

**Policy 5.9: Woodlands and Agricultural Lands Management**

This project does not impact woodlands or agricultural land.

**Policy 5.10: Historic and Cultural Areas Management**

This project is not anticipated to impact historic or cultural resources. Coordination with the Delaware SHPO is pending.

**Policy 5.11: Living Resources**

This project does not impact living resources.

**Policy 5.12 Mineral Resources Management**

This project does not impact mineral resources.

**Policy 5.13: State Owned Coastal Recreation and Conservation**

This project does not impact state owned recreational or conservation lands.

**Policy 5.14: Public Trust Doctrine**

This project is not part of a public trust.

**Policy 5.15: Energy Facilities**

This project is not associated with energy facilities.

**Policy 5.16: Public Investment**

This project does not have public investment.

**Policy 5.17: Recreation and Tourism**

This project does not impact recreation and tourism.

**Policy 5.18: National Defense and Aerospace Facilities**

This project does not affect national defense or aerospace facilities.

**Policy 5.19: Transportation Facilities**

This project does not affect transportation facilities.



**Policy 5.20: Air Quality Management**

This project does not impact air quality.

**Policy 5.21: Water Supply Management**

This project does not impact water supply.

**Policy 5.22: Waste Disposal Management**

This project does not involve waste disposal.

**Policy 5.23: Development**

This project is not a development project.

**Policy 5.24: Pollution Prevention**

This project will not result in pollution.

**Policy 5.25: Coastal Management Coordination**

This project will be in conformance with coastal management requirements.

**VI. JPP and RAS Review (Check all that apply):**

Has the project been reviewed in a monthly Joint Permit Processing and/or Regulatory Advisory Service meeting?

- JPP                       RAS                       None

\*If yes, provide the date of the meeting(s): \_\_\_\_\_

**VII. Statement of Certification/Determination and Signature (Check one and sign below):**

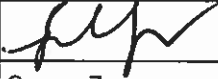
**FEDERAL AGENCY CONSISTENCY DETERMINATION.** Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity is consistent to the maximum extent practicable with the enforceable policies of the Delaware Coastal Management Program.

OR

**FEDERAL AGENCY NEGATIVE DETERMINATION.** Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity will not have any reasonably foreseeable effects on Delaware's coastal uses or resources (Negative Determination) and is therefore consistent with the enforceable policies of the Delaware Coastal Management Program.

OR

**NON-FEDERAL APPLICANT'S CONSISTENCY CERTIFICATION.** Based upon the information, data, and analysis included herein, the non-federal applicant for a federal license or permit, or state or local government agency applying for federal funding, listed in (I) above, finds that this proposed activity complies with the enforceable policies of the Delaware Coastal Management Program and will be conducted in a manner consistent with such program.

Signature:			
Printed Name:	George Zang	Date:	9/25/2023

Pursuant to 15 C.F.R. Part 930, the Delaware Coastal Management Program must provide its concurrence with or objection to this consistency determination or consistency certification in accordance with the deadlines listed below. Concurrence will be presumed if the state's response is not received within the allowable timeframe.

**Federal Consistency Review Deadlines:**

Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)	60 days with option to extend an additional 15 days or stay review (15 C.F.R. § 930.41)
Federal License or Permit (15 C.F.R. Part 930, Subpart D)	Six months, with a status letter at three months. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.63)
Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)	Six months, with a status letter at three months. If three month status letter not issued, then concurrence presumed. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.78)
Federal Financial Assistance to State or Local Governments (15 C.F.R. Part 930, Subpart F)	State Clearinghouse schedule

**OFFICIAL USE ONLY:**

Reviewed By:	Fed Con ID:	Date Received:
Public notice dates: _____ to _____	Comments Received: <input type="checkbox"/> NO <input type="checkbox"/> YES <i>[attach comments]</i>	
Decision type: <small>(objections or conditions attach details)</small>	Decision Date: _____	

**Attachment 1**  
**Site Location Map**





**Study Area**

Fort Saulsbury

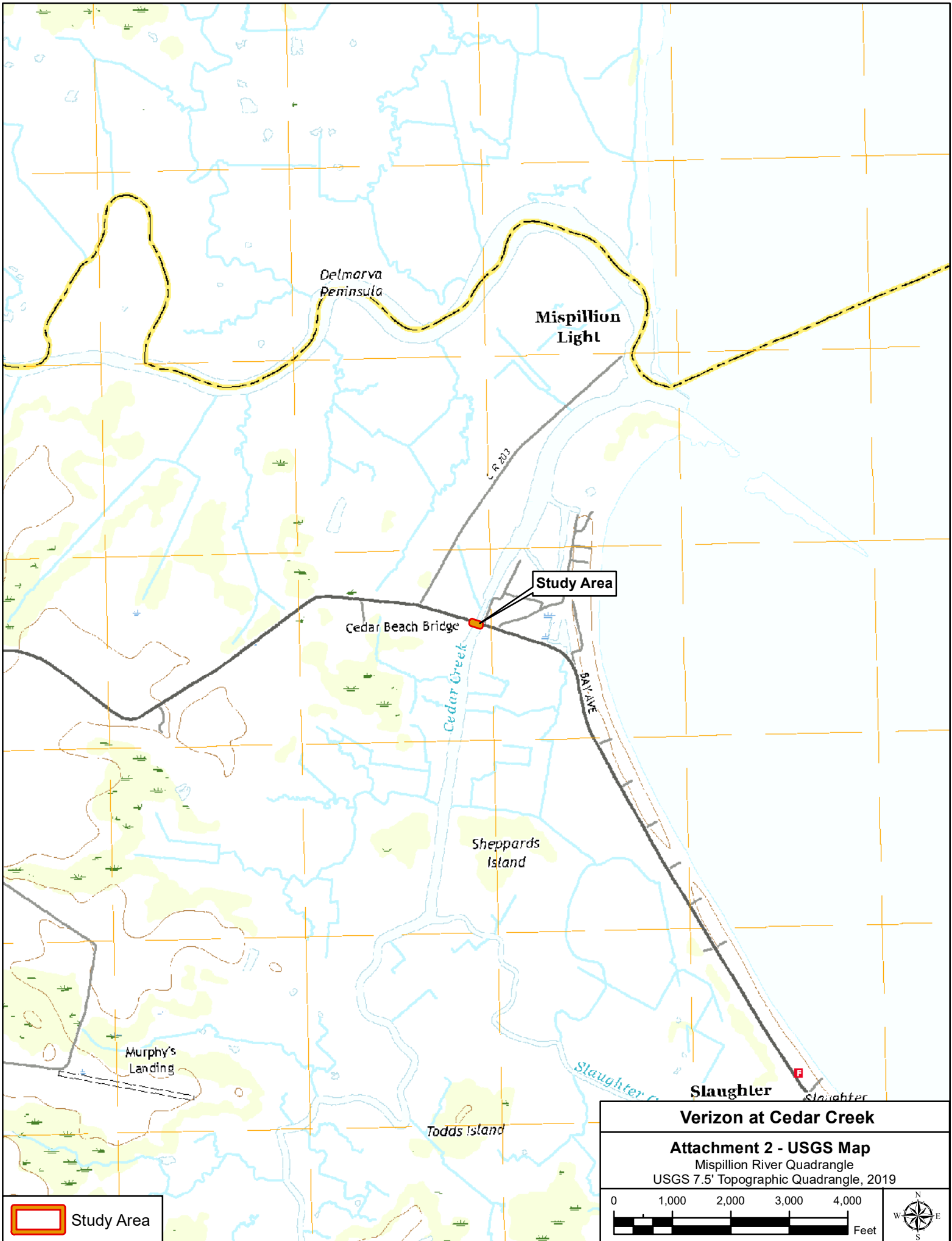
Mispillion Light

Slaughter Beach

<b>Verizon at Cedar Creek</b>	
<b>Attachment 1 - Site Location Map</b>	
Sussex County, Delaware ESRI ArcGIS Basemaps	
0    1,000    2,000    3,000    4,000	 Feet
	

 Study Area

**Attachment 2**  
**USGS Map**




 Study Area

**Verizon at Cedar Creek**

**Attachment 2 - USGS Map**  
Mispillion River Quadrangle  
USGS 7.5' Topographic Quadrangle, 2019

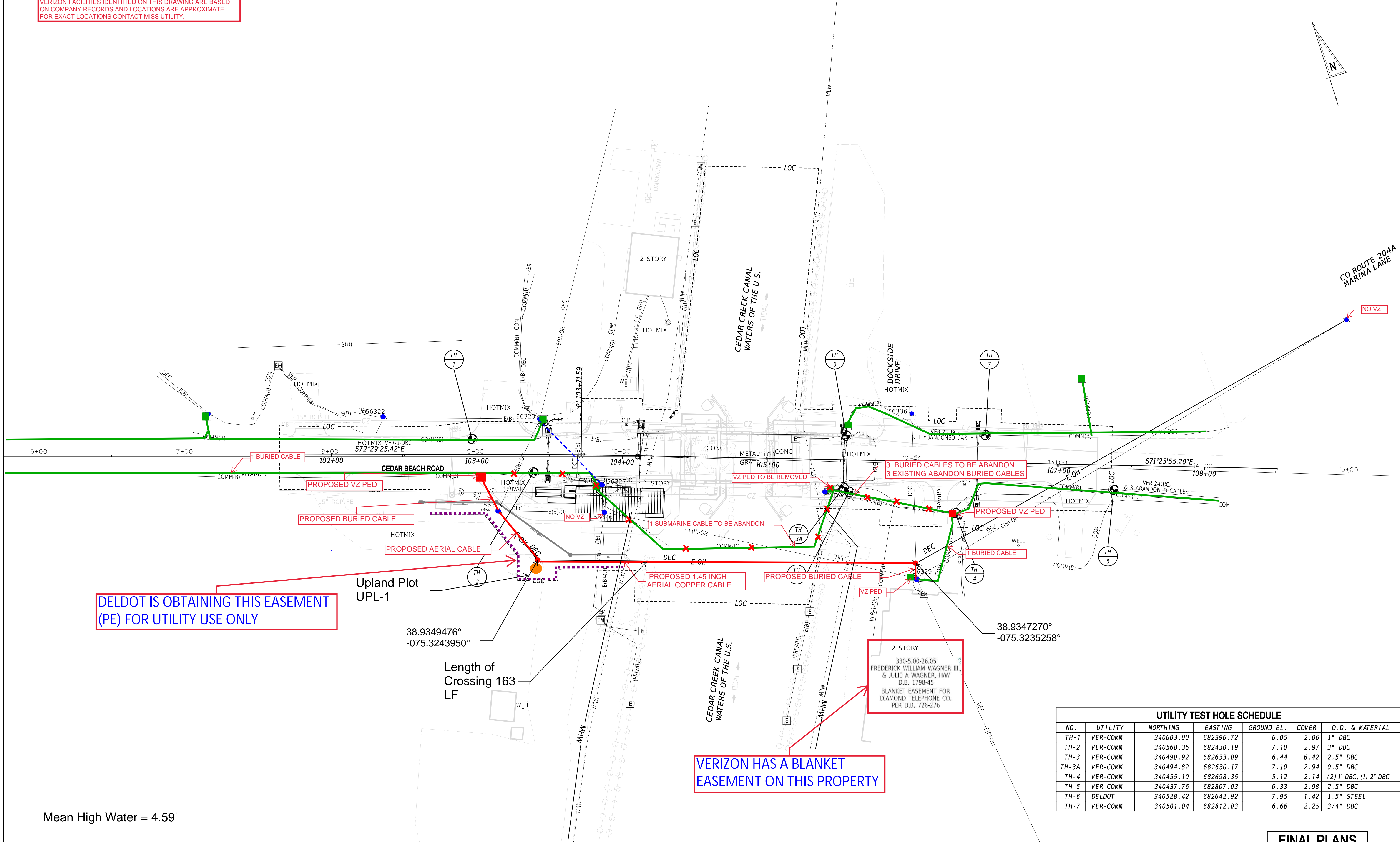
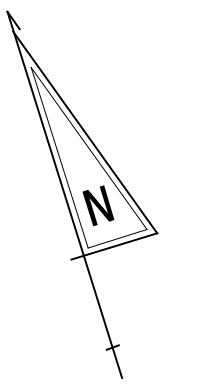
0 1,000 2,000 3,000 4,000  
Feet



**Attachment 3**  
**Site Plan/Impact Plan**



VERIZON FACILITIES IDENTIFIED ON THIS DRAWING ARE BASED ON COMPANY RECORDS AND LOCATIONS ARE APPROXIMATE. FOR EXACT LOCATIONS CONTACT MISS UTILITY.



DELDOT IS OBTAINING THIS EASEMENT (PE) FOR UTILITY USE ONLY

38.9349476°  
-075.3243950°

Length of Crossing 163 LF

VERIZON HAS A BLANKET EASEMENT ON THIS PROPERTY

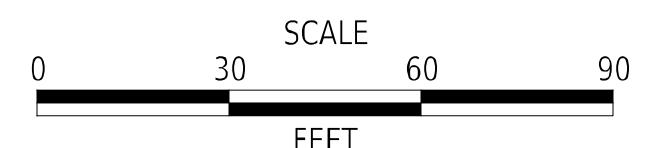
2 STORY  
330-5.00-26.05  
FREDERICK WILLIAM WAGNER III,  
& JULIE A WAGNER, H/W  
D.B. 1798-45  
BLANKET EASEMENT FOR  
DIAMOND TELEPHONE CO.  
PER D.B. 726-276

38.9347270°  
-075.3235258°

UTILITY TEST HOLE SCHEDULE						
NO.	UTILITY	NORTHING	EASTING	GROUND EL.	COVER	O.D. & MATERIAL
TH-1	VER-COMM	340603.00	682396.72	6.05	2.06	1" DBC
TH-2	VER-COMM	340568.35	682430.19	7.10	2.97	3" DBC
TH-3	VER-COMM	340490.92	682633.09	6.44	6.42	2.5" DBC
TH-3A	VER-COMM	340494.82	682630.17	7.10	2.94	0.5" DBC
TH-4	VER-COMM	340455.10	682698.35	5.12	2.14	(2) 1" DBC, (1) 2" DBC
TH-5	VER-COMM	340437.76	682807.03	6.33	2.98	2.5" DBC
TH-6	DELDOT	340528.42	682642.92	7.95	1.42	1.5" STEEL
TH-7	VER-COMM	340501.04	682812.03	6.66	2.25	3/4" DBC

Mean High Water = 4.59'

ADDENDA / REVISIONS



REPLACEMENT OF VERIZON FIBER  
SR 36 CEDAR BEACH ROAD

CONTRACT	BRIDGE NO.	<b>3-164</b>
T202007301	DESIGNED BY:	G. CORREALE
COUNTY	CHECKED BY:	G. PERDICK
SUSSEX		

**FINAL PLANS**

UTILITY RELOCATION PLAN

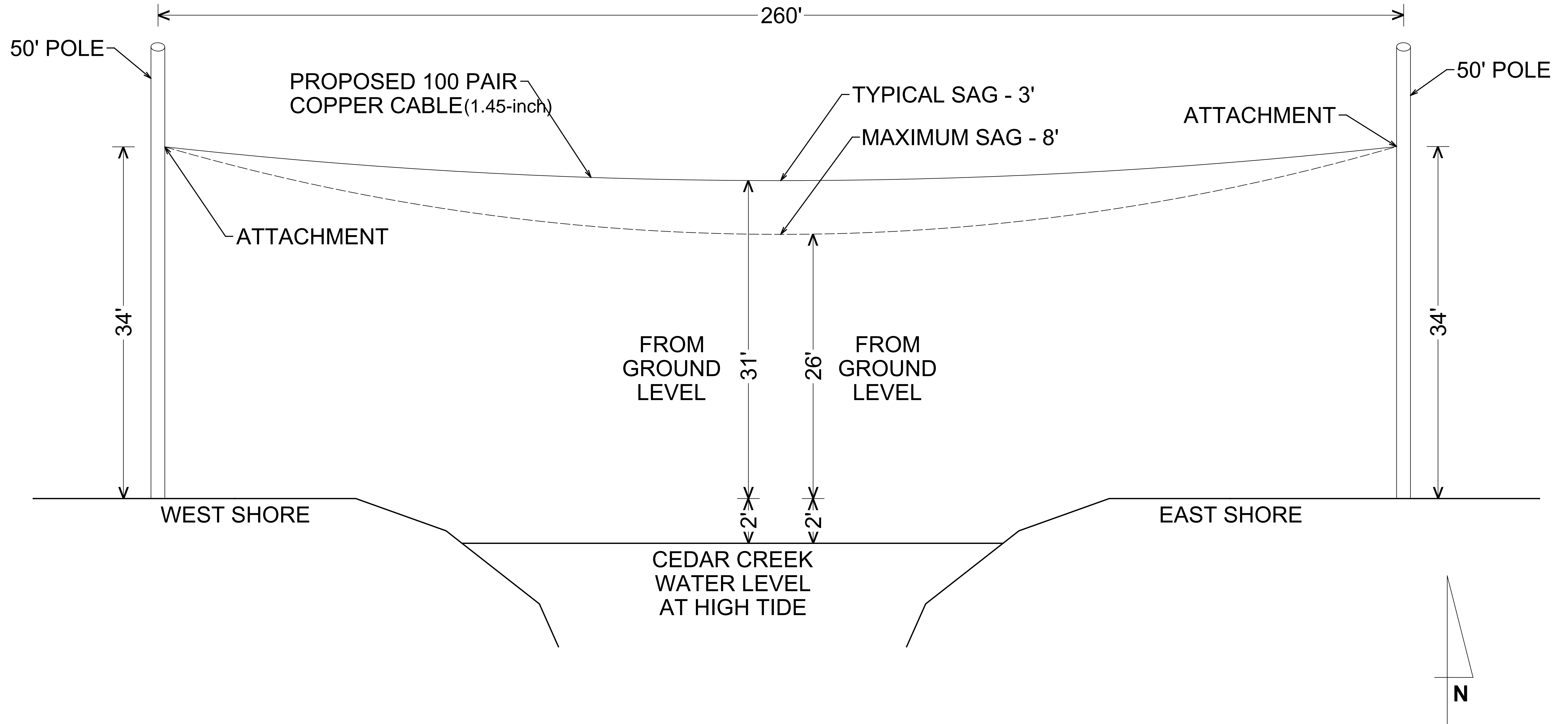
SECTION  
AEC  
SHEET NO.  
173

C:\PWORKING\AECOM\_DS21\_NA\_2020\0112279\UT000.DGN



**Attachment 4**  
**Profile Plan**

VERIZON IS PROPOSING 1 AERIAL COPPER  
CABLE CROSSING CEDAR CREEK.  
THE MINIMUM SAG WOULD BE 3'  
THE MAXIMUM SAG WOULD BE 8'



**Attachment 5**  
**Wetland Delineation Memo**



ISO 9001:2008 CERTIFIED

ENGINEERS • PLANNERS • SCIENTISTS • CONSTRUCTION MANAGERS

936 Ridgebrook Road • Sparks, MD 21152 • Phone 410-316-7800 • Fax 410-316-7885

July 27, 2023

Mr. George Zang  
Verizon Delaware LLC  
2 Industrial Lane  
Milford, Delaware 19963

RE: Verizon Crossing of Cedar Creek  
Milford, Delaware

SUB: Wetland Delineation Memorandum

Dear Mr. Zang:

KCI Technologies, Inc. (KCI) is assisting with the environmental permitting required for the relocated crossing of a Verizon utility line across Cedar Creek in Milford, Delaware. Verizon proposes to install a new 100-pr overhead fiber line on new 50-foot tall poles over Cedar Creek in Milford, Delaware. New poles will be installed in uplands on either side of the creek. The new cable will be installed south of the SR 36 bridge. As part of this effort, KCI performed a wetland investigation to determine the presence of wetlands and other “waters of the United States” (WUS) systems within the study area. Resources throughout the study area were identified and delineated in accordance with the methodologies outlined in the *Corps of Engineers Wetlands Delineation Manual* (Environmental Laboratory, 1987), the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)* (Environmental Laboratory, 2010), and other relevant guidance documents.

This memorandum documents wetland and waterways conditions as field delineated on June 6, 2023, within the project area. Prior to the commencement of field activities, KCI reviewed readily available primary source materials to determine the presence or absence of natural resources within the study area.

### **Study Area and Description**

The project study area consists of a developed stream corridor that crosses SR 36. Cedar Creek is a tidal waterway that flows north through the study area, beneath SR 36 to its confluence with the Delaware Bay. The proposed Verizon line would be installed south of SR 36. A residential property is located east of Cedar Creek and a small park with a gravel road and parking area is located west of Cedar Creek.

## Findings


KCI performed a field reconnaissance to determine the presence or absence of wetland areas during June 2023. The field investigation identified one tidal stream in the study area. No wetlands were identified. A photolog is attached to this memorandum.

Cedar Creek is a tidal, perennial stream that flows north through the study area beneath SR 36. The stream is approximately 163 feet wide and the banks are lined with riprap. Boat docks are located within the stream. The stream corridor is developed with a residential property to the east and a small park to the west with a gravel road and parking area.

Typical vegetation noted in the project area included fleabane (*Erigeron annuus* [FACU]), common milkweed (*Asclepias syriaca* [UPL]), common reed (*Phragmites australis* [FACW]), wild rye (*Elymus* species), and grass species. The area was dry and the soils were compacted and disturbed with a gravel layer. No wetlands were identified.

Should you have any questions concerning these findings please do not hesitate to contact me at (410) 316-7959 or via email at [jennifer.bird@kci.com](mailto:jennifer.bird@kci.com).

Very truly yours,  
**KCI TECHNOLOGIES, INC.**



Jennifer Bird  
Senior Project Manager  
Natural Resources Management Practice

**Enclosures:** Attachment 1: Photolog

CC: File: 021800984AML



Photo 1: Location of proposed crossing over Cedar Creek, facing east from western streambank.



Photo 2: Upland area proposed for pole placement west of Cedar Creek.





Photo 3: Cedar Creek, facing north from western streambank.



Photo 4: Upland area west of Cedar Creek.

Project/Site: Verizon - Cedar Creek Crossing City/County: Milford, DE Sampling Date: 6/6/2023  
 Applicant/Owner: Verizon Delaware LLC State: DE Sampling Point: UPL-1  
 Investigator(s): JBIRD Section, Township, Range: \_\_\_\_\_  
 Landform (hillside, terrace, etc.): terrace Local relief (concave, convex, none): None Slope (%): 0  
 Subregion (LRR or MLRA): LRR T Lat: 38.934955 Long: -75.324192 Datum: NAD83  
 Soil Map Unit Name: Sunken mucky silt loam, 0-2% slopes (SuA) NWI classification: NA

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No \_\_\_\_\_ (If no, explain in Remarks.)  
 Are Vegetation \_\_\_\_\_, Soil X, or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? Yes X No \_\_\_\_\_  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

**SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.**

Hydrophytic Vegetation Present?	Yes _____ No <u>X</u>	<b>Is the Sampled Area within a Wetland?</b> Yes _____ No <u>X</u>
Hydric Soil Present?	Yes _____ No <u>X</u>	
Wetland Hydrology Present?	Yes _____ No <u>X</u>	

Remarks:  
 The sample plot was collected west of Cedar Creek in a disturbed park area. Despite the soil survey data, the soil was compacted with gravel and disturbed in the area of the proposed utility pole. No evidence of hydrology was observed. The area was classified as upland.

**HYDROLOGY**

<b>Wetland Hydrology Indicators:</b> <u>Primary Indicators (minimum of one is required; check all that apply)</u> _____ Surface Water (A1) _____ Aquatic Fauna (B13) _____ High Water Table (A2) _____ Marl Deposits (B15) <b>(LRR U)</b> _____ Saturation (A3) _____ Hydrogen Sulfide Odor (C1) _____ Water Marks (B1) _____ Oxidized Rhizospheres on Living Roots (C3) _____ Sediment Deposits (B2) _____ Presence of Reduced Iron (C4) _____ Drift Deposits (B3) _____ Recent Iron Reduction in Tilled Soils (C6) _____ Algal Mat or Crust (B4) _____ Thin Muck Surface (C7) _____ Iron Deposits (B5) _____ Other (Explain in Remarks) _____ Inundation Visible on Aerial Imagery (B7) _____ Water-Stained Leaves (B9)	<u>Secondary Indicators (minimum of two required)</u> _____ Surface Soil Cracks (B6) _____ Sparsely Vegetated Concave Surface (B8) _____ Drainage Patterns (B10) _____ Moss Trim Lines (B16) _____ Dry-Season Water Table (C2) _____ Crayfish Burrows (C8) _____ Saturation Visible on Aerial Imagery (C9) _____ Geomorphic Position (D2) _____ Shallow Aquitard (D3) _____ FAC-Neutral Test (D5) _____ Sphagnum Moss (D8) <b>(LRR T, U)</b>
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<b>Field Observations:</b> Surface Water Present? Yes _____ No _____ Depth (inches): _____ Water Table Present? Yes _____ No _____ Depth (inches): _____ Saturation Present? Yes _____ No _____ Depth (inches): _____ (includes capillary fringe)	<b>Wetland Hydrology Present?</b> Yes _____ No <u>X</u>
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Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:  
 The sample plot did not satisfy the wetland hydrology criterion. The area was very dry.



**VEGETATION (Four Strata) – Use scientific names of plants.**

Sampling Point: UPL-1

<u>Tree Stratum</u> (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. _____	_____	_____	_____	<b>Dominance Test worksheet:</b> Number of Dominant Species That Are OBL, FACW, or FAC: <u>0</u> (A) Total Number of Dominant Species Across All Strata: <u>3</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>0.0%</u> (A/B)																
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
8. _____	_____	_____	_____																	
_____ = Total Cover				<b>Prevalence Index worksheet:</b> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">Total % Cover of:</td> <td style="width:50%;">Multiply by:</td> </tr> <tr> <td>OBL species <u>0</u></td> <td>x 1 = <u>0</u></td> </tr> <tr> <td>FACW species <u>10</u></td> <td>x 2 = <u>20</u></td> </tr> <tr> <td>FAC species <u>0</u></td> <td>x 3 = <u>0</u></td> </tr> <tr> <td>FACU species <u>10</u></td> <td>x 4 = <u>40</u></td> </tr> <tr> <td>UPL species <u>30</u></td> <td>x 5 = <u>150</u></td> </tr> <tr> <td>Column Totals: <u>50</u> (A)</td> <td><u>210</u> (B)</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = <u>4.20</u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u>0</u>	x 1 = <u>0</u>	FACW species <u>10</u>	x 2 = <u>20</u>	FAC species <u>0</u>	x 3 = <u>0</u>	FACU species <u>10</u>	x 4 = <u>40</u>	UPL species <u>30</u>	x 5 = <u>150</u>	Column Totals: <u>50</u> (A)	<u>210</u> (B)	Prevalence Index = B/A = <u>4.20</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>0</u>	x 1 = <u>0</u>																			
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Column Totals: <u>50</u> (A)	<u>210</u> (B)																			
Prevalence Index = B/A = <u>4.20</u>																				
50% of total cover: _____ 20% of total cover: _____																				
<u>Sapling/Shrub Stratum</u> (Plot size: _____)																				
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
8. _____	_____	_____	_____																	
_____ = Total Cover																				
50% of total cover: _____ 20% of total cover: _____																				
<u>Herb Stratum</u> (Plot size: <u>30</u> )																				
1. <u>Erigeron annuus</u>	<u>10</u>	<u>No</u>	<u>FACU</u>	<sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.  <b>Definitions of Four Vegetation Strata:</b> <b>Tree</b> – Woody plants, excluding vines, 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height.  <b>Sapling/Shrub</b> – Woody plants, excluding vines, less than 3 in. DBH and greater than 3.28 ft (1 m) tall.  <b>Herb</b> – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall.  <b>Woody Vine</b> – All woody vines greater than 3.28 ft in height.																
2. <u>Asclepias syriaca</u>	<u>30</u>	<u>Yes</u>	<u>UPL</u>																	
3. <u>Elymus</u>	<u>20</u>	<u>Yes</u>	_____																	
4. <u>Festuca</u>	<u>30</u>	<u>Yes</u>	_____																	
5. <u>Phragmites australis</u>	<u>10</u>	<u>No</u>	<u>FACW</u>																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
8. _____	_____	_____	_____																	
9. _____	_____	_____	_____																	
10. _____	_____	_____	_____																	
11. _____	_____	_____	_____																	
12. _____	_____	_____	_____																	
_____ = Total Cover																				
50% of total cover: <u>50</u> 20% of total cover: <u>20</u>																				
<u>Woody Vine Stratum</u> (Plot size: _____)																				
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
_____ = Total Cover																				
50% of total cover: _____ 20% of total cover: _____																				
<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:60%;"><b>Hydrophytic Vegetation Present?</b></td> <td style="width:20%; text-align: center;"><b>Yes</b> _____</td> <td style="width:20%; text-align: center;"><b>No</b> <u>X</u></td> </tr> </table>				<b>Hydrophytic Vegetation Present?</b>	<b>Yes</b> _____	<b>No</b> <u>X</u>														
<b>Hydrophytic Vegetation Present?</b>	<b>Yes</b> _____	<b>No</b> <u>X</u>																		

Remarks: (If observed, list morphological adaptations below.)  
 The sample plot does not satisfy the hydrophytic vegetation criterion.

**SOIL**

Sampling Point: UPL-1

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

**Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)**

- Histosol (A1)
- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5)
- Organic Bodies (A6) (LRR P, T, U)
- 5 cm Mucky Mineral (A7) (LRR P, T, U)
- Muck Presence (A8) (LRR U)
- 1 cm Muck (A9) (LRR P, T)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Coast Prairie Redox (A16) (MLRA 150A)
- Sandy Mucky Mineral (S1) (LRR O, S)
- Sandy Gleyed Matrix (S4)
- Sandy Redox (S5)
- Stripped Matrix (S6)
- Dark Surface (S7) (LRR P, S, T, U)
- Polyvalue Below Surface (S8) (LRR S, T, U)
- Thin Dark Surface (S9) (LRR S, T, U)
- Barrier Islands 1 cm Muck (S12) (MLRA 153B, 153D)
- Loamy Mucky Mineral (F1) (LRR O)
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)
- Marl (F10) (LRR U)
- Depleted Ochric (F11) (MLRA 151)
- Iron-Manganese Masses (F12) (LRR O, P, T)
- Umbric Surface (F13) (LRR P, T, U)
- Delta Ochric (F17) (MLRA 151)
- Reduced Vertic (F18) (MLRA 150A, 150B)
- Piedmont Floodplain Soils (F19) (MLRA 149A)
- Anomalous Bright Floodplain Soils (F20) (MLRA 149A, 153C, 153D)
- Very Shallow Dark Surface (F22) (MLRA 138, 152A in FL, 154)

**Indicators for Problematic Hydric Soils<sup>3</sup>:**

- 1 cm Muck (A9) (LRR O)
- 2 cm Muck (A10) (LRR S)
- Coast Prairie Redox (A16) (outside MLRA 150A)
- Reduced Vertic (F18) (outside MLRA 150A, 150B)
- Piedmont Floodplain Soils (F19) (LRR P, T)
- Anomalous Bright Floodplain Soils (F20) (MLRA 153B)
- Red Parent Material (F21)
- Very Shallow Dark Surface (F22) (outside MLRA 138, 152A in FL, 154)
- Barrier Islands Low Chroma Matrix (TS7) (MLRA 153B, 153D)
- Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if observed):**

Type: \_\_\_\_\_  
 Depth (inches): \_\_\_\_\_

Hydric Soil Present? Yes \_\_\_\_\_ No \_\_\_\_\_

**Remarks:**

Soils were not collected as the soil was disturbed and compacted.

**Attachment 6**  
**USFWS Coordination**

## Jennifer Bird

---

**From:** Clark, Trevor <trevor\_clark@fws.gov>  
**Sent:** Friday, July 7, 2023 4:31 PM  
**To:** Jennifer Bird  
**Subject:** [External Email] Re: [EXTERNAL] Consistency Letter question

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

\*\*\*From IT@KCI.COM 410-316-7820 \*\*\* This is an External Email from outside of KCI.\*\*\*

---

Hi Jenn,

The Route 36 Over Cedar Creek project will have "no effect" on the federally threatened red knot (*Calidris canutus rufa*). In addition, the monarch butterfly (*Danaus plexippus*) is a candidate species and not yet listed or proposed for listing. There are no section 7 requirements for candidate species.

Thanks Jenn.

Trevor Clark  
Fish and Wildlife Biologist/Transportation Liaison  
U.S. Fish and Wildlife Service  
Chesapeake Bay Ecological Services Field Office  
Endangered and Threatened Species Branch  
177 Admiral Cochrane Drive  
Annapolis, Maryland 21401

Cell phone: (410) 458-5657  
Telephone: (410) 573-4527  
Fax: (410) 269-0832

Email: [trevor\\_clark@fws.gov](mailto:trevor_clark@fws.gov)

---

**From:** Jennifer Bird <Jennifer.Bird@kci.com>  
**Sent:** Thursday, July 6, 2023 9:59 AM  
**To:** Clark, Trevor <trevor\_clark@fws.gov>  
**Subject:** RE: [EXTERNAL] Consistency Letter question

Hi Trevor, I just wanted to check back in, do you have any concerns about the red knot at Rt 365 in Milford DE? Thanks!

Jenn

---

**From:** Jennifer Bird  
**Sent:** Friday, June 9, 2023 11:27 AM  
**To:** Clark, Trevor <trevor\_clark@fws.gov>  
**Subject:** RE: [EXTERNAL] Consistency Letter question



## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Chesapeake Bay Ecological Services Field Office  
177 Admiral Cochrane Drive  
Annapolis, MD 21401-7307  
Phone: (410) 573-4599 Fax: (410) 266-9127

In Reply Refer To:  
Project code: 2023-0086302  
Project Name: Route 36 Over Cedar Creek

May 25, 2023

Federal Nexus: no  
Federal Action Agency (if applicable):

Subject: Technical assistance for 'Route 36 Over Cedar Creek'

Dear Katie Myers:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on May 25, 2023, for "Route 36 Over Cedar Creek" (here forward, Project). This project has been assigned Project Code 2023-0086302 and all future correspondence should clearly reference this number.

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into the IPaC must accurately represent the full scope and details of the Project. Failure to accurately represent or implement the Project as detailed in IPaC or the Northeast Determination Key (Dkey), invalidates this letter. To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), to a federally listed species or designated critical habitat.

Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17). Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no further consultation with, or concurrence from, the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required (except when the Service concurs, in writing, that a proposed action "is

not likely to adversely affect (NLAA)" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

The IPaC results indicated the following species is (are) potentially present in your project area and, based on your responses to the Service's Northeast DKey, you determined the proposed Project will have the following effect determinations:

<b>Species</b>	<b>Listing Status</b>	<b>Determination</b>
Red Knot ( <i>Calidris canutus rufa</i> )	Threatened	May affect

**Consultation with the Service is not complete.** Further consultation or coordination with the Service is necessary for those species or designated critical habitats with a determination of "May Affect". Please contact our Chesapeake Bay Ecological Services Field Office to discuss methods to avoid or minimize potential adverse effects to those species or designated critical habitats.

In addition to the species listed above, the following species and/or critical habitats may also occur in your project area and are not covered by this conclusion:

- Monarch Butterfly *Danaus plexippus* Candidate

Please Note: If the Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) by the prospective permittee may be required. Please contact the Migratory Birds Permit Office, (413) 253-8643, or [PermitsR5MB@fws.gov](mailto:PermitsR5MB@fws.gov), with any questions regarding potential impacts to Eagles.

If you have any questions regarding this letter or need further assistance, please contact the Chesapeake Bay Ecological Services Field Office and reference the Project Code associated with this Project.

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**Action Description**

You provided to IPaC the following name and description for the subject Action.

**1. Name**

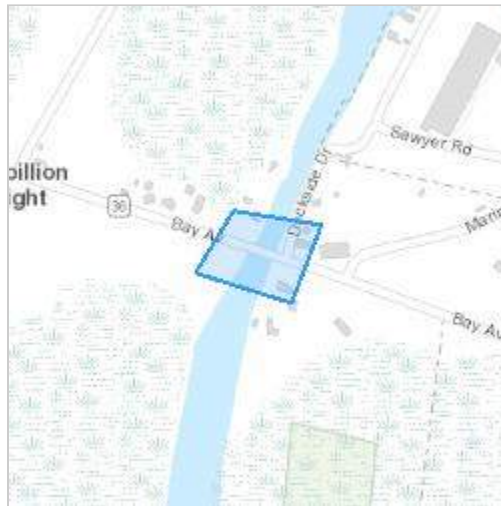
Route 36 Over Cedar Creek

**2. Description**

The following description was provided for the project 'Route 36 Over Cedar Creek':

Verizon Wireless has contracted KCI Technologies, Inc to provide design engineering services for the Route 36 Over Cedar Creek Verizon overhead crossing in Milford, Delaware.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.93504405,-75.3238615391942,14z>



## QUALIFICATION INTERVIEW

1. As a representative of this project, do you agree that all items submitted represent the complete scope of the project details and you will answer questions truthfully?

*Yes*

2. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed species?

**Note:** This question could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered, or proposed species.

*No*

3. Is the action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

*No*

4. Will the proposed project involve the use of herbicide where listed species are present?

*No*

5. Are there any caves or anthropogenic features suitable for hibernating or roosting bats within the area expected to be impacted by the project?

*No*

6. Does any component of the project associated with this action include structures that may pose a collision risk to **birds** (e.g., land-based or offshore wind turbines, communication towers, high voltage transmission lines, any type of towers with or without guy wires)?

**Note:** For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

*Yes*

7. Does any component of the project associated with this action include structures that may pose a collision risk to **bats** (e.g., land-based wind turbines)?

**Note:** For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

*No*

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8. Will the proposed project result in permanent changes to water quantity in a stream or temporary changes that would be sufficient to result in impacts to listed species?

For example, will the proposed project include any activities that would alter stream flow, such as water withdrawal, hydropower energy production, impoundments, intake structures, diversion structures, and/or turbines? Projects that include temporary and limited water reductions that will not displace listed species or appreciably change water availability for listed species (e.g. listed species will experience no changes to feeding, breeding or sheltering) can answer "No". Note: This question refers only to the amount of water present in a stream, other water quality factors, including sedimentation and turbidity, will be addressed in following questions.

*No*

9. Will the proposed project affect wetlands where listed species are present?

This includes, for example, project activities within wetlands, project activities within 300 feet of wetlands that may have impacts on wetlands, water withdrawals and/or discharge of contaminants (even with a NPDES).

*No*

10. Will the proposed project activities (including upland project activities) occur within 0.5 miles of the water's edge of a stream or tributary of a stream where listed species may be present?

*No*

11. Will the proposed project directly affect a streambed (below ordinary high water mark (OHWM)) of the stream or tributary where listed species may be present?

*No*

12. Will the proposed project bore underneath (directional bore or horizontal directional drill) a stream where listed species may be present?

*No*

13. Will the proposed project involve a new point source discharge into a stream or change an existing point source discharge (e.g., outfalls; leachate ponds) where listed species may be present?

*No*

14. Will the proposed project involve the removal of excess sediment or debris, dredging or in-stream gravel mining where listed species may be present?

*No*

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15. Will the proposed project involve the creation of a new water-borne contaminant source where listed species may be present?

**Note** New water-borne contaminant sources occur through improper storage, usage, or creation of chemicals. For example: leachate ponds and pits containing chemicals that are not NSF/ANSI 60 compliant have contaminated waterways. Sedimentation will be addressed in a separate question.

*No*

16. Will the proposed project involve perennial stream loss, in a stream or tributary of a stream where listed species may be present, that would require an individual permit under 404 of the Clean Water Act?

*No*

17. Will the proposed project involve blasting where listed species may be present?

*No*

18. Will the proposed project include activities that could result in an increase to recreational fishing or potentially affect fish movement temporarily or permanently (including fish stocking, harvesting, or creation of barriers to fish passage)?

*No*

19. Will the proposed project involve earth moving that could cause erosion and sedimentation, and/or contamination along a stream or tributary of a stream where listed species may be present?

**Note** Answer "Yes" to this question if erosion and sediment control measures will be used to protect the stream.

*Yes*

20. Will the proposed project involve vegetation removal within 200 feet of a perennial stream bank where listed species may be present?

*Yes*

21. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, be applied to the project? If BMPs have been provided by and/or coordinated with and approved by the appropriate Ecological Services Field Office, answer "Yes" to this question.

*Yes*

22. Will the proposed project result in changes to beach dynamics that may modify formation of habitat over time?

**Note:** Examples of projects that result in changes to beach dynamics include 1) construction of offshore breakwaters and groins; 2) mining of sand from an updrift ebb tidal delta; 3) removing or adding beach sands; and 4) projects that stabilize dunes (including placement of sand fences or planting vegetation).

*No*

23. [Hidden Semantic] Is the project area located within the red knot AOI?

**Automatically answered**

*Yes*

---

24. [Semantic] Does the project intersect the Virginia big-eared bat critical habitat?  
**Automatically answered**  
*No*
25. [Semantic] Does the project intersect the Indiana bat critical habitat?  
**Automatically answered**  
*No*
26. [Semantic] Does the project intersect the candy darter critical habitat?  
**Automatically answered**  
*No*
27. [Semantic] Does the project intersect the diamond darter critical habitat?  
**Automatically answered**  
*No*
28. [Semantic] Does the project intersect the Big Sandy crayfish critical habitat?  
**Automatically answered**  
*No*
29. [Hidden Semantic] Does the project intersect the Guyandotte River crayfish critical habitat?  
**Automatically answered**  
*No*
30. Do you have any other documents that you want to include with this submission?  
*No*
-

## PROJECT QUESTIONNAIRE

1. Approximately how many acres of trees would the proposed project remove?  
*0*
  2. Approximately how many total acres of disturbance are within the disturbance/  
construction limits of the proposed project?  
*1*
  3. Briefly describe the habitat within the construction/disturbance limits of the project site.  
*Earth removal in order to install communication poles for an overhead crossing*
-

## **IPAC USER CONTACT INFORMATION**

Agency: KCI Technologies, Inc

Name: Katie Myers

Address: 936 Ridgebrook Road

City: Sparks

State: MD

Zip: 21152

Email: katherine.myers@kci.com

Phone: 4435954116

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# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Chesapeake Bay Ecological Services Field Office  
177 Admiral Cochrane Drive  
Annapolis, MD 21401-7307  
Phone: (410) 573-4599 Fax: (410) 266-9127

In Reply Refer To:  
Project Code: 2023-0086302  
Project Name: Route 36 Over Cedar Creek

May 25, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

## To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

**Migratory Birds:** In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

---

Attachment(s):

- Official Species List



## **OFFICIAL SPECIES LIST**

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**Chesapeake Bay Ecological Services Field Office**

177 Admiral Cochrane Drive

Annapolis, MD 21401-7307

(410) 573-4599

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## PROJECT SUMMARY

Project Code: 2023-0086302

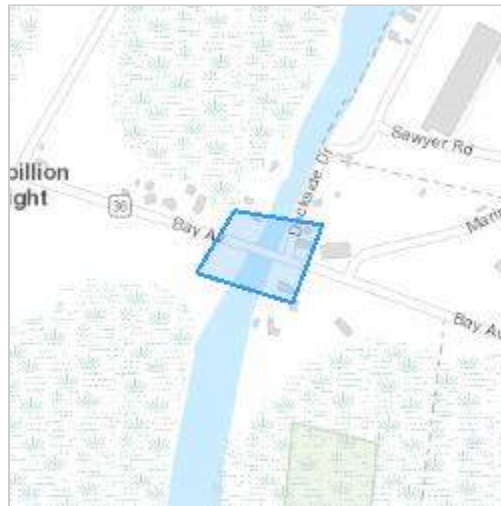
Project Name: Route 36 Over Cedar Creek

Project Type: Transmission Line - New Constr - Above Ground

Project Description: Verizon Wireless has contracted KCI Technologies, Inc to provide design engineering services for the Route 36 Over Cedar Creek Verizon overhead crossing in Milford, Delaware.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.93504405,-75.3238615391942,14z>



Counties: Sussex County, Delaware

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## ENDANGERED SPECIES ACT SPECIES

There is a total of 2 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### BIRDS

NAME	STATUS
Red Knot <i>Calidris canutus rufa</i> There is <b>proposed</b> critical habitat for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a>	Threatened

### INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> <li>▪ The monarch is a candidate species and not yet listed or proposed for listing. There are generally no section 7 requirements for candidate species (FAQ found here: <a href="https://www.fws.gov/savethemonarch/FAQ-Section7.html">https://www.fws.gov/savethemonarch/FAQ-Section7.html</a>).</li> </ul> Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate

### CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

---

## **IPAC USER CONTACT INFORMATION**

Agency: KCI Technologies, Inc

Name: Katie Myers

Address: 936 Ridgebrook Road

City: Sparks

State: MD

Zip: 21152

Email: katherine.myers@kci.com

Phone: 4435954116

---

**Attachment 7**  
**DNREC Correspondence**



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL

DIVISION OF FISH & WILDLIFE  
RICHARDSON & ROBBINS BUILDING  
89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

DIRECTOR'S  
OFFICE

PHONE  
(302) 739-9910

September 6, 2023

Jennifer Bird  
KCI Technologies, Inc.  
936 Ridgebrook Rd  
Sparks, MD 21152

*Re: KCIT 2023 Verizon Crossing Route 36 Cedar Creek*

Dear Jennifer:

Thank you for contacting the Species Conservation and Research Program (SCRCP) about information on rare, threatened and endangered species, unique natural communities, and other significant natural resources as they relate to the above referenced project.

*State Natural Heritage Site*

A review of our database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at this project site. As a result, at present, this project does not lie within a State Natural Heritage Site, nor does it lie within a Delaware National Estuarine Research Reserve which are two criteria used to identify "Designated Critical Resource Waters" in the Army Corps of Engineers (ACOE) Nationwide Permit General Condition No. 22. A copy of this letter shall be included in any permit application or pre-construction notification submitted to the Army Corps of Engineers for activities on this property.

*Fisheries*

Cedar Creek provides spawning habitat for anadromous species including Blueback Herring (*Alosa aestivalis*), alewife (*Alosa pseudoharengus*), and White Perch (*Morone americana*). Alewife and blueback herring, often collectively referred to as 'river herring', are listed by the National Marine Fisheries Service as a Species of Concern. These species are also important to both commercial and recreational fisheries and form an important forage base for other animal species. We request a time of year restriction be put in place on in-water work activities. In-water work should not take place from **March 15<sup>th</sup> through June 30<sup>th</sup>**.

Cedar Creek is used by large numbers of American Eel (*Anguilla rostrata*). We request that in-water work not take place from **March 1<sup>st</sup> through May 15<sup>th</sup>** to allow upstream passage of elvers (young eels).

We are continually updating our records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information.

Please feel free to contact me with any questions or if you require additional information.

Sincerely,

A handwritten signature in black ink that reads "Danielle Ellis". The signature is written in a cursive, flowing style.

Danielle Ellis  
*Environmental Review Coordinator*  
Phone: (302) 223-2446  
6180 Hay Point Landing Road  
Smyrna, DE 19977

(See invoice on next page)

**Attachment 8**  
**DE SHPO Correspondence**

PENDING



U.S. Army Corps of Engineers (USACE)  
**APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT**

For use of this form, see 33 CFR 325. The proponent agency is CECW-CO-R.

*Form Approved -  
OMB No. 0710-0003  
Expires: 08-31-2023*

The public reporting burden for this collection of information, OMB Control Number 0710-0003, is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at [whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil](mailto:whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR APPLICATION TO THE ABOVE EMAIL.

**PRIVACY ACT STATEMENT**

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and/or instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned. System of Record Notice (SORN). The information received is entered into our permit tracking database and a SORN has been completed (SORN #A1145b) and may be accessed at the following website: <http://dpcdd.defense.gov/Privacy/SORNsIndex/DOD-wide-SORN-Article-View/Article/570115/a1145b-ce.aspx>

**(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)**

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
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**(ITEMS BELOW TO BE FILLED BY APPLICANT)**

5. APPLICANT'S NAME First - George Middle - Last - Zang Company - Verizon Delaware LLC E-mail Address - george.w.zang@verizon.com	8. AUTHORIZED AGENT'S NAME AND TITLE (agent is not required) First - Jennifer Middle - Last - Bird Company - KCI Technologies, Inc. E-mail Address - jennifer.bird@kci.com
6. APPLICANT'S ADDRESS: Address- 2 Industrial Lane City - Milford State - DE Zip - 19963 Country - USA	9. AGENT'S ADDRESS: Address- 936 Ridgebrook Road City - Sparks State - MD Zip - 21152 Country - USA
7. APPLICANT'S PHONE NOS. w/AREA CODE a. Residence b. Business c. Fax	10. AGENTS PHONE NOS. w/AREA CODE a. Residence b. Business c. Fax 410-316-7959

**STATEMENT OF AUTHORIZATION**

11. I hereby authorize, Jennifer Bird, KCI Technologies, Inc. to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

 7/27/2023  
SIGNATURE OF APPLICANT DATE

**NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY**

12. PROJECT NAME OR TITLE (see instructions) Replacement of Verizon Fiber on SR 36 Cedar Beach Road	14. PROJECT STREET ADDRESS (if applicable) Address SR 36 over Cedar Creek City - Milford State - DE Zip - 19963
13. NAME OF WATERBODY, IF KNOWN (if applicable) Cedar Creek	
15. LOCATION OF PROJECT Latitude: +N 38.914725 Longitude: +W -75.324007	
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions) State Tax Parcel ID Municipality Section - Township - Range -	

**17. DIRECTIONS TO THE SITE**

Follow State Route 1 south to a left on State Route 36 (Cedar Beach Road). Continue to the Cedar Creek crossing, just before Dockside Drive.

**18. Nature of Activity (Description of project, include all features)**

Verizon proposes to install a new 100-pr overhead fiber line on new 50-foot tall poles over Cedar Creek in Milford, Delaware. New poles will be installed in uplands on either side of the creek. The new cable will be installed south of the SR 36 bridge. The crossing will be 163 feet from bank to bank and will be at a height of 33 feet over the channel. A site visit performed on June 6, 2023 did not identify any wetlands in the vicinity of the crossing.

The existing submarine cable will be removed by cutting the cable on one side of the channel and pulling it out of the channel from the opposite bank. The existing cable was laid on the channel bed in 1973, and not directionally drilled. No mechanized equipment is planned to be in the waterway.

Results from the USFWS IPAC search are included in this application package. USFWS identified the Rufa Red Knot as a threatened species, but did not identify critical habitat in the project area. A site visit performed on June 6, 2023 did not identify suitable habitat. Coordination with Trevor Clark of USFWS determined the project will have "no effect" on the Rufa Red Knot. Correspondence is attached.

**19. Project Purpose (Describe the reason or purpose of the project, see instructions)**

The purpose of this project is to relocate an existing Verizon submarine cable crossing Cedar Creek. The existing cable is in conflict with Delaware DOT proposed construction. Verizon proposes to replace the cable with an aerial cable to cross Cedar Creek and to remove the existing submarine cable to avoid any future hazards should the channel ever require dredging.

**USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED**

**20. Reason(s) for Discharge**

**21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:**

Type Amount in Cubic Yards	Type Amount in Cubic Yards	Type Amount in Cubic Yards
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**22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)**

Acres  
or  
Linear Feet

**23. Description of Avoidance, Minimization, and Compensation (see instructions)**

24. Is Any Portion of the Work Already Complete?  Yes  No IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

a. Address- 24536 Bay Avenue

City - Milford State - DE Zip - 19963

b. Address- 24420 Bay Avenue

City - Milford State - DE Zip - 19963

c. Address-

City - State - Zip -

d. Address-

City - State - Zip -

e. Address-

City - State - Zip -

26. List of Other Certificates or Approvals/Denials received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
NA					

\* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for permit or permits to authorize the work described in this application. I certify that this information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.



SIGNATURE OF APPLICANT

7/27/2023

DATE

SIGNATURE OF AGENT

7/27/2023

DATE

The Application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.



ISO 9001:2015 CERTIFIED

ENGINEERS • PLANNERS • SCIENTISTS • CONSTRUCTION MANAGERS

936 Ridgebrook Road • Sparks, MD 21152 • Phone 410-316-7800 • Fax 410-316-7817

September 25, 2023

Mr. Todd Schaible, Chief  
Regulatory Branch  
US Army Corps of Engineers  
Philadelphia District  
Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390

RE: Verizon Delaware LLC  
Replacement of Verizon Copper on SR 36 Cedar Beach Road  
Milford, Delaware

SUBJ: Section 408 Application, Written Request for Approval of Project Modification

Dear Mr. Schaible:

KCI Technologies, Inc. (KCI) is currently assisting Verizon Delaware LLC (Verizon) with replacement of an existing crossing of Cedar Creek in Milford, Delaware. An application for Section 10 approval was submitted to the US Army Corps of Engineers on July 27, 2023. At the time of receipt, USACE requested that a Section 408 application also be submitted.

**Description/Purpose.** The purpose of this project is to relocate an existing Verizon submarine cable crossing Cedar Creek. The existing cable is in conflict with Delaware Department of Transportation (DelDOT) proposed construction. Verizon proposes to replace the existing submarine cable with an aerial cable across Cedar Creek and to remove the existing submarine cable to avoid any future hazards should the channel ever require dredging.

Verizon proposes to install a new 1.45-inch diameter 100-pr overhead copper line on new 50-foot tall poles over Cedar Creek in Milford, Delaware. New poles will be installed in uplands on either side of the creek. The new cable will be installed south of the SR 36 bridge. The crossing will be 163 feet from bank to bank and will be at a height of 33 feet over the channel. A site location map and a site plan are included with this submittal.

The existing submarine cable will be removed by cutting the cable on one side of the channel and pulling it out of the channel from the opposite bank. The existing cable was laid on the channel bed in 1973, and not directionally drilled. No mechanized equipment is planned to be in the waterway.

The project is not anticipated to require the use of federally-owned property, but both the existing and the proposed replacement cable cross the Cedar Creek Navigation Project.

The project is anticipated to start in December 2023, once all approvals are received.

**Operations and Maintenance Requirements.** Verizon will be responsible for all operations and maintenance (O&M) of the proposed cable. USACE will not need to assume any O&M responsibilities for the crossing.

**Real Estate Analysis.** All work will be completed within the Verizon or DelDOT right of way as illustrated on the attached site plan.

**Residual Risk.** The project will not cause changes to the existing level of risk to life or property and the project will not incur damages more frequently as a result of flooding. DelDOT and Verizon both indicated that the project would likely have less risk for damage as an aerial crossing than a submarine crossing.

**Executive Order 11988 Considerations.** The project must be constructed in the floodplain as it is the replacement of an existing crossing of Cedar Creek. The existing cable is in conflict with DelDOT proposed construction. Verizon proposes to replace the existing submarine cable with an aerial cable across Cedar Creek with a utility pole installed on either side of the creek.

**Environmental Protection Compliance.** The project is not anticipated to have an adverse effect on the natural environment. A wetland delineation performed in June 2023 did not identify any wetlands within the areas proposed for utility pole installation. The project will result in the submarine cable being removed from the Cedar Creek streambed, eliminating a future dredging or navigation hazard. Coordination with the US Fish and Wildlife Service identified the federally threatened red knot as a known species in the vicinity of the project area; however, USFWS determined that the project will have “no effect” on the red knot. A wetland delineation report and correspondence with USFWS are included as attachments to this request.

The Delaware Department of Natural Resource and Environmental Control (DNREC) provided correspondence noting that the project does not lie within a State Natural Heritage Site nor a Delaware National Estuarine Research Reserve. Cedar Creek does provide spawning habitat for some anadromous fish species, and an instream restriction will be followed. This correspondence is included as attachments to this request.

**Coastal Zone Consistency.** KCI submitted a request to DNREC regarding Coastal Zone Consistency. This information is pending receipt.

**Historic and Cultural Areas Management.** KCI submitted a request to the Delaware Division of Historic and Cultural Affairs on August 9, 2023, requesting any information regarding the presence of any historical sites within the project area. This information is pending receipt.

Impacts are not anticipated to clean air, hazardous waste, or noise.

We thank you in advance for your assistance in this matter. Should you have any questions concerning the proposed project or require additional information prior to issuing an authorization for this work please do not hesitate to contact me at (410) 316-7959 or via email at [jennifer.bird@kci.com](mailto:jennifer.bird@kci.com).

Very truly yours,  
**KCI TECHNOLOGIES, INC.**



Jennifer Bird  
Senior Project Manager  
Natural Resources Practice

Direct Dial Phone: 410.316.7959  
Email: [jennifer.bird@kci.com](mailto:jennifer.bird@kci.com)

Enclosures

CC: George Zang // Verizon  
Darren Coppersmith // KCI Utility Practice  
KCI File: 021800984AML

**Attachment 1**  
**Site Location Map**

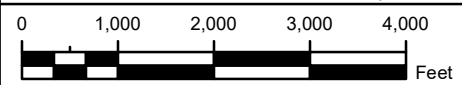




**Verizon at Cedar Creek**

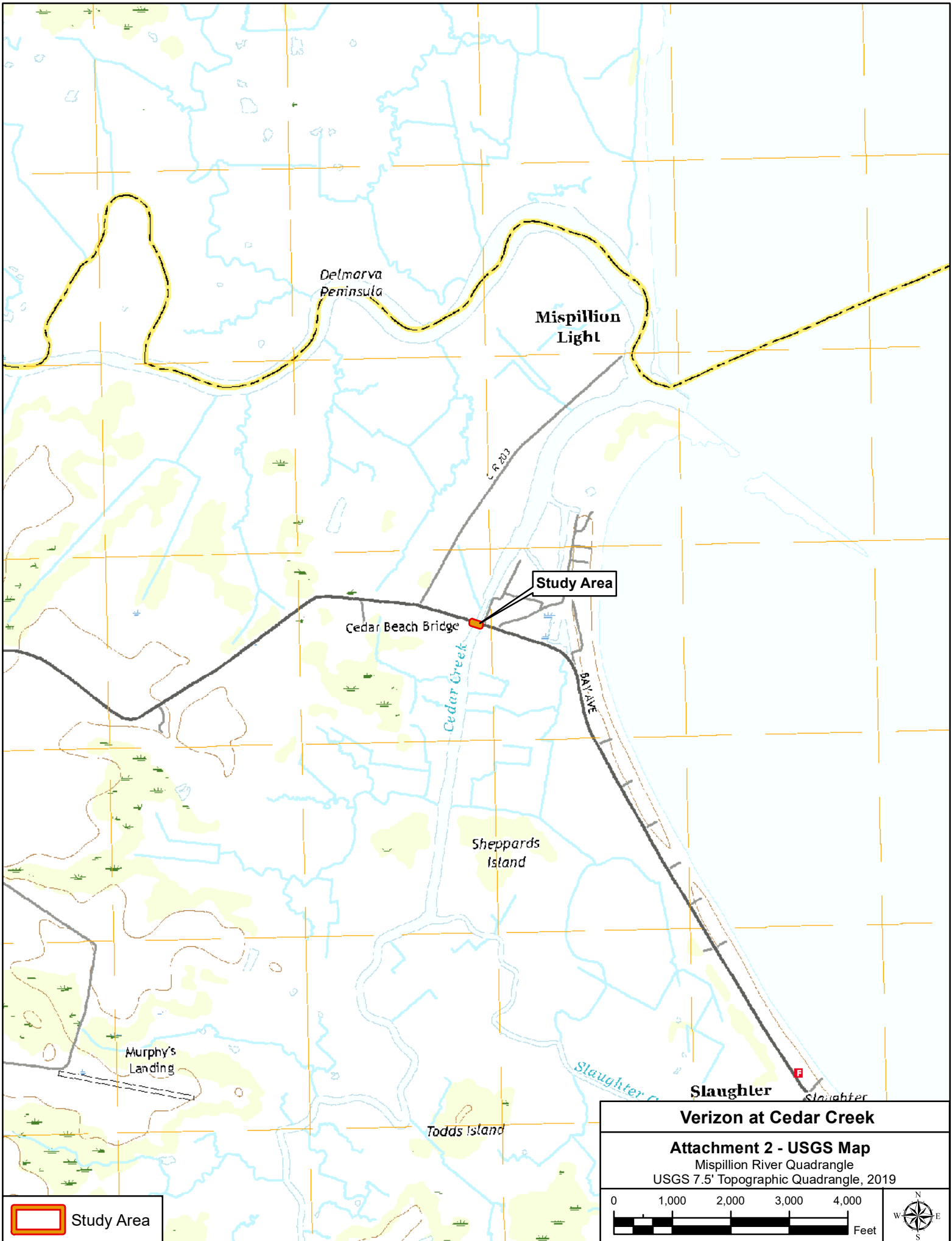
**Attachment 1 - Site Location Map**

Sussex County, Delaware  
 ESRI ArcGIS Basemaps



 Study Area

**Attachment 2**  
**USGS Map**



Delmarva Peninsula

Mispillion Light

Study Area

Cedar Beach Bridge

Cedar Creek

Bay Ave

Sheppards Island

Murphy's Landing

Todd's Island

Slaughter

Slaughter

Verizon at Cedar Creek

Attachment 2 - USGS Map

Mispillion River Quadrangle

USGS 7.5' Topographic Quadrangle, 2019

0 1,000 2,000 3,000 4,000

Feet



Study Area

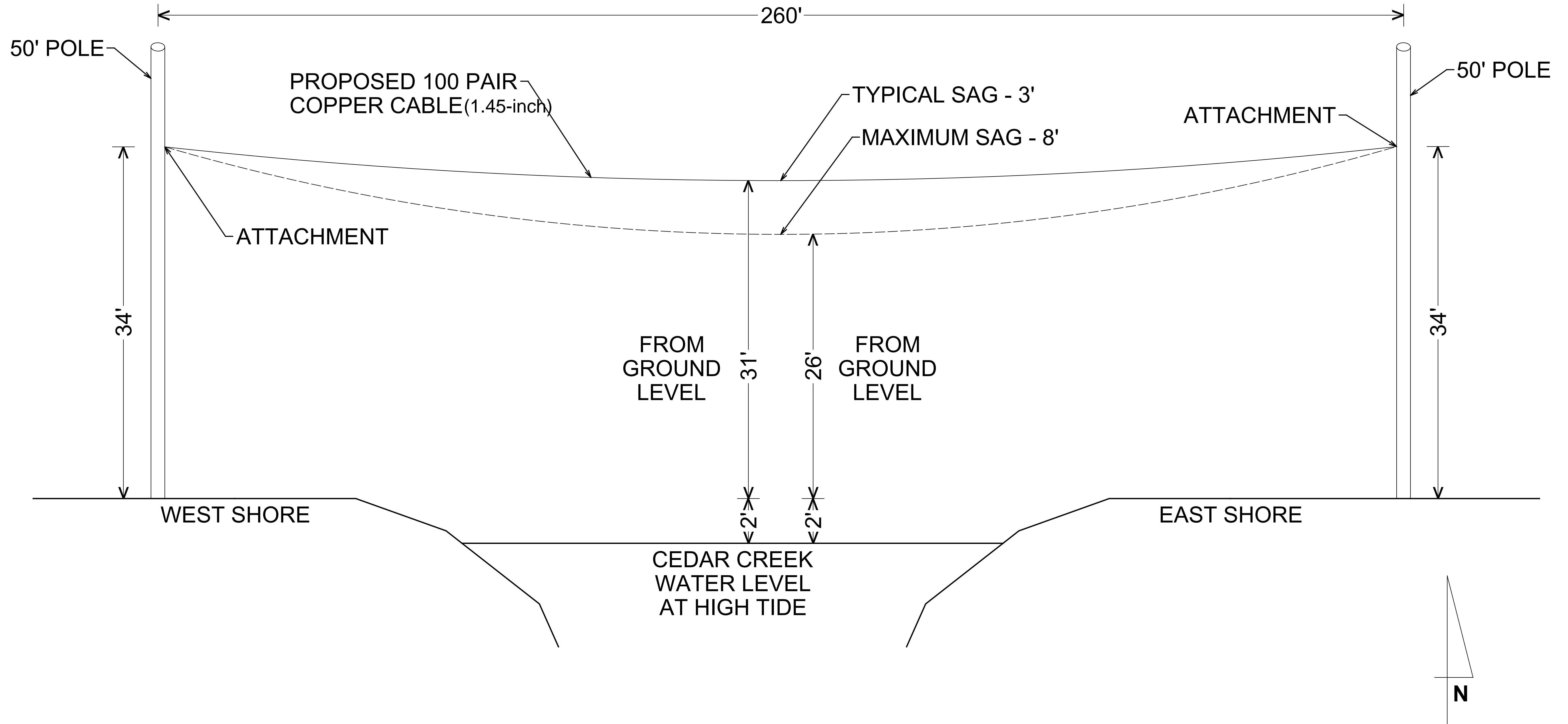
**Attachment 3**  
**Site Plan/Impact Plan**





**Attachment 4**  
**Profile Plan**

VERIZON IS PROPOSING 1 AERIAL COPPER  
CABLE CROSSING CEDAR CREEK.  
THE MINIMUM SAG WOULD BE 3'  
THE MAXIMUM SAG WOULD BE 8'



**Attachment 5**  
**Wetland Delineation Memo**





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ENGINEERS • PLANNERS • SCIENTISTS • CONSTRUCTION MANAGERS

936 Ridgebrook Road • Sparks, MD 21152 • Phone 410-316-7800 • Fax 410-316-7885

July 27, 2023

Mr. George Zang  
Verizon Delaware LLC  
2 Industrial Lane  
Milford, Delaware 19963

RE: Verizon Crossing of Cedar Creek  
Milford, Delaware

SUB: Wetland Delineation Memorandum

Dear Mr. Zang:

KCI Technologies, Inc. (KCI) is assisting with the environmental permitting required for the relocated crossing of a Verizon utility line across Cedar Creek in Milford, Delaware. Verizon proposes to install a new 100-pr overhead fiber line on new 50-foot tall poles over Cedar Creek in Milford, Delaware. New poles will be installed in uplands on either side of the creek. The new cable will be installed south of the SR 36 bridge. As part of this effort, KCI performed a wetland investigation to determine the presence of wetlands and other “waters of the United States” (WUS) systems within the study area. Resources throughout the study area were identified and delineated in accordance with the methodologies outlined in the *Corps of Engineers Wetlands Delineation Manual* (Environmental Laboratory, 1987), the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)* (Environmental Laboratory, 2010), and other relevant guidance documents.

This memorandum documents wetland and waterways conditions as field delineated on June 6, 2023, within the project area. Prior to the commencement of field activities, KCI reviewed readily available primary source materials to determine the presence or absence of natural resources within the study area.

### **Study Area and Description**

The project study area consists of a developed stream corridor that crosses SR 36. Cedar Creek is a tidal waterway that flows north through the study area, beneath SR 36 to its confluence with the Delaware Bay. The proposed Verizon line would be installed south of SR 36. A residential property is located east of Cedar Creek and a small park with a gravel road and parking area is located west of Cedar Creek.

## Findings


KCI performed a field reconnaissance to determine the presence or absence of wetland areas during June 2023. The field investigation identified one tidal stream in the study area. No wetlands were identified. A photolog is attached to this memorandum.

Cedar Creek is a tidal, perennial stream that flows north through the study area beneath SR 36. The stream is approximately 163 feet wide and the banks are lined with riprap. Boat docks are located within the stream. The stream corridor is developed with a residential property to the east and a small park to the west with a gravel road and parking area.

Typical vegetation noted in the project area included fleabane (*Erigeron annuus* [FACU]), common milkweed (*Asclepias syriaca* [UPL]), common reed (*Phragmites australis* [FACW]), wild rye (*Elymus* species), and grass species. The area was dry and the soils were compacted and disturbed with a gravel layer. No wetlands were identified.

Should you have any questions concerning these findings please do not hesitate to contact me at (410) 316-7959 or via email at [jennifer.bird@kci.com](mailto:jennifer.bird@kci.com).

Very truly yours,  
**KCI TECHNOLOGIES, INC.**



Jennifer Bird  
Senior Project Manager  
Natural Resources Management Practice

**Enclosures:** Attachment 1: Photolog

CC: File: 021800984AML



Photo 1: Location of proposed crossing over Cedar Creek, facing east from western streambank.



Photo 2: Upland area proposed for pole placement west of Cedar Creek.





Photo 3: Cedar Creek, facing north from western streambank.



Photo 4: Upland area west of Cedar Creek.

Project/Site: Verizon - Cedar Creek Crossing City/County: Milford, DE Sampling Date: 6/6/2023  
 Applicant/Owner: Verizon Delaware LLC State: DE Sampling Point: UPL-1  
 Investigator(s): JBIRD Section, Township, Range: \_\_\_\_\_  
 Landform (hillside, terrace, etc.): terrace Local relief (concave, convex, none): None Slope (%): 0  
 Subregion (LRR or MLRA): LRR T Lat: 38.934955 Long: -75.324192 Datum: NAD83  
 Soil Map Unit Name: Sunken mucky silt loam, 0-2% slopes (SuA) NWI classification: NA

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No \_\_\_\_\_ (If no, explain in Remarks.)  
 Are Vegetation \_\_\_\_\_, Soil X, or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? Yes X No \_\_\_\_\_  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

**SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.**

Hydrophytic Vegetation Present?	Yes _____	No <u>X</u>	<b>Is the Sampled Area within a Wetland?</b>	Yes _____	No <u>X</u>
Hydric Soil Present?	Yes _____	No <u>X</u>			
Wetland Hydrology Present?	Yes _____	No <u>X</u>			

Remarks:  
 The sample plot was collected west of Cedar Creek in a disturbed park area. Despite the soil survey data, the soil was compacted with gravel and disturbed in the area of the proposed utility pole. No evidence of hydrology was observed. The area was classified as upland.

**HYDROLOGY**

<b>Wetland Hydrology Indicators:</b> Primary Indicators (minimum of one is required; check all that apply)	Secondary Indicators (minimum of two required)
_____ Surface Water (A1) _____ High Water Table (A2) _____ Saturation (A3) _____ Water Marks (B1) _____ Sediment Deposits (B2) _____ Drift Deposits (B3) _____ Algal Mat or Crust (B4) _____ Iron Deposits (B5) _____ Inundation Visible on Aerial Imagery (B7) _____ Water-Stained Leaves (B9)	_____ Surface Soil Cracks (B6) _____ Sparsely Vegetated Concave Surface (B8) _____ Drainage Patterns (B10) _____ Moss Trim Lines (B16) _____ Dry-Season Water Table (C2) _____ Crayfish Burrows (C8) _____ Saturation Visible on Aerial Imagery (C9) _____ Geomorphic Position (D2) _____ Shallow Aquitard (D3) _____ FAC-Neutral Test (D5) _____ Sphagnum Moss (D8) (LRR T, U)
_____ Aquatic Fauna (B13) _____ Marl Deposits (B15) (LRR U) _____ Hydrogen Sulfide Odor (C1) _____ Oxidized Rhizospheres on Living Roots (C3) _____ Presence of Reduced Iron (C4) _____ Recent Iron Reduction in Tilled Soils (C6) _____ Thin Muck Surface (C7) _____ Other (Explain in Remarks)	

<b>Field Observations:</b> Surface Water Present? Yes _____ No _____ Depth (inches): _____ Water Table Present? Yes _____ No _____ Depth (inches): _____ Saturation Present? Yes _____ No _____ Depth (inches): _____ (includes capillary fringe)	<b>Wetland Hydrology Present?</b> Yes _____ No <u>X</u>
---	---

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:  
 The sample plot did not satisfy the wetland hydrology criterion. The area was very dry.

**VEGETATION (Four Strata) – Use scientific names of plants.**

Sampling Point: UPL-1

<u>Tree Stratum</u> (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status	
1. _____	_____	_____	_____	<b>Dominance Test worksheet:</b> Number of Dominant Species That Are OBL, FACW, or FAC: <u>0</u> (A) Total Number of Dominant Species Across All Strata: <u>3</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>0.0%</u> (A/B)
2. _____	_____	_____	_____	
3. _____	_____	_____	_____	
4. _____	_____	_____	_____	
5. _____	_____	_____	_____	
6. _____	_____	_____	_____	
7. _____	_____	_____	_____	
8. _____	_____	_____	_____	
_____ = Total Cover				<b>Prevalence Index worksheet:</b> Total % Cover of: _____ Multiply by: _____ OBL species <u>0</u> x 1 = <u>0</u> FACW species <u>10</u> x 2 = <u>20</u> FAC species <u>0</u> x 3 = <u>0</u> FACU species <u>10</u> x 4 = <u>40</u> UPL species <u>30</u> x 5 = <u>150</u> Column Totals: <u>50</u> (A) <u>210</u> (B) Prevalence Index = B/A = <u>4.20</u>
50% of total cover: _____		20% of total cover: _____		
<u>Sapling/Shrub Stratum</u> (Plot size: _____)				
1. _____	_____	_____	_____	
2. _____	_____	_____	_____	
3. _____	_____	_____	_____	
4. _____	_____	_____	_____	
5. _____	_____	_____	_____	
6. _____	_____	_____	_____	
7. _____	_____	_____	_____	
8. _____	_____	_____	_____	
_____ = Total Cover				
50% of total cover: _____		20% of total cover: _____		
<u>Herb Stratum</u> (Plot size: <u>30</u> )				
1. <u>Erigeron annuus</u>	<u>10</u>	<u>No</u>	<u>FACU</u>	
2. <u>Asclepias syriaca</u>	<u>30</u>	<u>Yes</u>	<u>UPL</u>	
3. <u>Elymus</u>	<u>20</u>	<u>Yes</u>	_____	
4. <u>Festuca</u>	<u>30</u>	<u>Yes</u>	_____	
5. <u>Phragmites australis</u>	<u>10</u>	<u>No</u>	<u>FACW</u>	
6. _____	_____	_____	_____	
7. _____	_____	_____	_____	
8. _____	_____	_____	_____	
9. _____	_____	_____	_____	
10. _____	_____	_____	_____	
11. _____	_____	_____	_____	
12. _____	_____	_____	_____	
_____ = Total Cover				
50% of total cover: <u>50</u>		20% of total cover: <u>20</u>		
<u>Woody Vine Stratum</u> (Plot size: _____)				
1. _____	_____	_____	_____	
2. _____	_____	_____	_____	
3. _____	_____	_____	_____	
4. _____	_____	_____	_____	
5. _____	_____	_____	_____	
_____ = Total Cover				
50% of total cover: _____		20% of total cover: _____		

<sup>1</sup>Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

**Definitions of Four Vegetation Strata:**  
**Tree** – Woody plants, excluding vines, 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height.  
**Sapling/Shrub** – Woody plants, excluding vines, less than 3 in. DBH and greater than 3.28 ft (1 m) tall.  
**Herb** – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall.  
**Woody Vine** – All woody vines greater than 3.28 ft in height.

**Hydrophytic Vegetation Present?**      Yes \_\_\_\_\_      No X

Remarks: (If observed, list morphological adaptations below.)  
 The sample plot does not satisfy the hydrophytic vegetation criterion.

**SOIL**

Sampling Point: UPL-1

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

**Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)**

- Histosol (A1)
- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5)
- Organic Bodies (A6) **(LRR P, T, U)**
- 5 cm Mucky Mineral (A7) **(LRR P, T, U)**
- Muck Presence (A8) **(LRR U)**
- 1 cm Muck (A9) **(LRR P, T)**
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Coast Prairie Redox (A16) **(MLRA 150A)**
- Sandy Mucky Mineral (S1) **(LRR O, S)**
- Sandy Gleyed Matrix (S4)
- Sandy Redox (S5)
- Stripped Matrix (S6)
- Dark Surface (S7) **(LRR P, S, T, U)**
- Polyvalue Below Surface (S8) **(LRR S, T, U)**
- Thin Dark Surface (S9) **(LRR S, T, U)**
- Barrier Islands 1 cm Muck (S12) **(MLRA 153B, 153D)**
- Loamy Mucky Mineral (F1) **(LRR O)**
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)
- Marl (F10) **(LRR U)**
- Depleted Ochric (F11) **(MLRA 151)**
- Iron-Manganese Masses (F12) **(LRR O, P, T)**
- Umbric Surface (F13) **(LRR P, T, U)**
- Delta Ochric (F17) **(MLRA 151)**
- Reduced Vertic (F18) **(MLRA 150A, 150B)**
- Piedmont Floodplain Soils (F19) **(MLRA 149A)**
- Anomalous Bright Floodplain Soils (F20) **(MLRA 149A, 153C, 153D)**
- Very Shallow Dark Surface (F22) **(MLRA 138, 152A in FL, 154)**

**Indicators for Problematic Hydric Soils<sup>3</sup>:**

- 1 cm Muck (A9) **(LRR O)**
- 2 cm Muck (A10) **(LRR S)**
- Coast Prairie Redox (A16) **(outside MLRA 150A)**
- Reduced Vertic (F18) **(outside MLRA 150A, 150B)**
- Piedmont Floodplain Soils (F19) **(LRR P, T)**
- Anomalous Bright Floodplain Soils (F20) **(MLRA 153B)**
- Red Parent Material (F21)
- Very Shallow Dark Surface (F22) **(outside MLRA 138, 152A in FL, 154)**
- Barrier Islands Low Chroma Matrix (TS7) **(MLRA 153B, 153D)**
- Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if observed):**

Type: \_\_\_\_\_  
 Depth (inches): \_\_\_\_\_

Hydric Soil Present?      Yes \_\_\_\_\_ No \_\_\_\_\_

Remarks:

Soils were not collected as the soil was disturbed and compacted.

**Attachment 6**  
**USFWS Coordination**



## Jennifer Bird

---

**From:** Clark, Trevor <trevor\_clark@fws.gov>  
**Sent:** Friday, July 7, 2023 4:31 PM  
**To:** Jennifer Bird  
**Subject:** [External Email] Re: [EXTERNAL] Consistency Letter question

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

\*\*\*From IT@KCI.COM 410-316-7820 \*\*\* This is an External Email from outside of KCI.\*\*\*

---

Hi Jenn,

The Route 36 Over Cedar Creek project will have "no effect" on the federally threatened red knot (*Calidris canutus rufa*). In addition, the monarch butterfly (*Danaus plexippus*) is a candidate species and not yet listed or proposed for listing. There are no section 7 requirements for candidate species.

Thanks Jenn.

Trevor Clark  
Fish and Wildlife Biologist/Transportation Liaison  
U.S. Fish and Wildlife Service  
Chesapeake Bay Ecological Services Field Office  
Endangered and Threatened Species Branch  
177 Admiral Cochrane Drive  
Annapolis, Maryland 21401

Cell phone: (410) 458-5657  
Telephone: (410) 573-4527  
Fax: (410) 269-0832

Email: [trevor\\_clark@fws.gov](mailto:trevor_clark@fws.gov)

---

**From:** Jennifer Bird <Jennifer.Bird@kci.com>  
**Sent:** Thursday, July 6, 2023 9:59 AM  
**To:** Clark, Trevor <trevor\_clark@fws.gov>  
**Subject:** RE: [EXTERNAL] Consistency Letter question

Hi Trevor, I just wanted to check back in, do you have any concerns about the red knot at Rt 365 in Milford DE? Thanks!

Jenn

---

**From:** Jennifer Bird  
**Sent:** Friday, June 9, 2023 11:27 AM  
**To:** Clark, Trevor <trevor\_clark@fws.gov>  
**Subject:** RE: [EXTERNAL] Consistency Letter question



## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Chesapeake Bay Ecological Services Field Office  
177 Admiral Cochrane Drive  
Annapolis, MD 21401-7307  
Phone: (410) 573-4599 Fax: (410) 266-9127

In Reply Refer To:  
Project code: 2023-0086302  
Project Name: Route 36 Over Cedar Creek

May 25, 2023

Federal Nexus: no  
Federal Action Agency (if applicable):

Subject: Technical assistance for 'Route 36 Over Cedar Creek'

Dear Katie Myers:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on May 25, 2023, for "Route 36 Over Cedar Creek" (here forward, Project). This project has been assigned Project Code 2023-0086302 and all future correspondence should clearly reference this number.

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into the IPaC must accurately represent the full scope and details of the Project. Failure to accurately represent or implement the Project as detailed in IPaC or the Northeast Determination Key (Dkey), invalidates this letter. To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), to a federally listed species or designated critical habitat.

Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17). Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no further consultation with, or concurrence from, the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required (except when the Service concurs, in writing, that a proposed action "is

not likely to adversely affect (NLAA)" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

The IPaC results indicated the following species is (are) potentially present in your project area and, based on your responses to the Service's Northeast DKey, you determined the proposed Project will have the following effect determinations:

<b>Species</b>	<b>Listing Status</b>	<b>Determination</b>
Red Knot ( <i>Calidris canutus rufa</i> )	Threatened	May affect

**Consultation with the Service is not complete.** Further consultation or coordination with the Service is necessary for those species or designated critical habitats with a determination of "May Affect". Please contact our Chesapeake Bay Ecological Services Field Office to discuss methods to avoid or minimize potential adverse effects to those species or designated critical habitats.

In addition to the species listed above, the following species and/or critical habitats may also occur in your project area and are not covered by this conclusion:

- Monarch Butterfly *Danaus plexippus* Candidate

Please Note: If the Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) by the prospective permittee may be required. Please contact the Migratory Birds Permit Office, (413) 253-8643, or [PermitsR5MB@fws.gov](mailto:PermitsR5MB@fws.gov), with any questions regarding potential impacts to Eagles.

If you have any questions regarding this letter or need further assistance, please contact the Chesapeake Bay Ecological Services Field Office and reference the Project Code associated with this Project.

---

**Action Description**

You provided to IPaC the following name and description for the subject Action.

**1. Name**

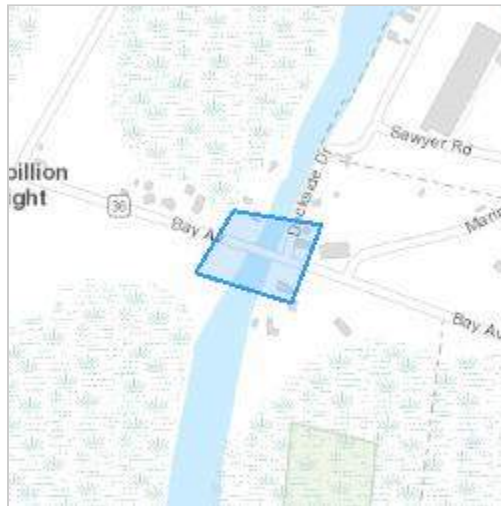
Route 36 Over Cedar Creek

**2. Description**

The following description was provided for the project 'Route 36 Over Cedar Creek':

Verizon Wireless has contracted KCI Technologies, Inc to provide design engineering services for the Route 36 Over Cedar Creek Verizon overhead crossing in Milford, Delaware.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.93504405,-75.3238615391942,14z>



## QUALIFICATION INTERVIEW

1. As a representative of this project, do you agree that all items submitted represent the complete scope of the project details and you will answer questions truthfully?

*Yes*

2. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed species?

**Note:** This question could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered, or proposed species.

*No*

3. Is the action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

*No*

4. Will the proposed project involve the use of herbicide where listed species are present?

*No*

5. Are there any caves or anthropogenic features suitable for hibernating or roosting bats within the area expected to be impacted by the project?

*No*

6. Does any component of the project associated with this action include structures that may pose a collision risk to **birds** (e.g., land-based or offshore wind turbines, communication towers, high voltage transmission lines, any type of towers with or without guy wires)?

**Note:** For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

*Yes*

7. Does any component of the project associated with this action include structures that may pose a collision risk to **bats** (e.g., land-based wind turbines)?

**Note:** For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

*No*

---

8. Will the proposed project result in permanent changes to water quantity in a stream or temporary changes that would be sufficient to result in impacts to listed species?

For example, will the proposed project include any activities that would alter stream flow, such as water withdrawal, hydropower energy production, impoundments, intake structures, diversion structures, and/or turbines? Projects that include temporary and limited water reductions that will not displace listed species or appreciably change water availability for listed species (e.g. listed species will experience no changes to feeding, breeding or sheltering) can answer "No". Note: This question refers only to the amount of water present in a stream, other water quality factors, including sedimentation and turbidity, will be addressed in following questions.

*No*

9. Will the proposed project affect wetlands where listed species are present?

This includes, for example, project activities within wetlands, project activities within 300 feet of wetlands that may have impacts on wetlands, water withdrawals and/or discharge of contaminants (even with a NPDES).

*No*

10. Will the proposed project activities (including upland project activities) occur within 0.5 miles of the water's edge of a stream or tributary of a stream where listed species may be present?

*No*

11. Will the proposed project directly affect a streambed (below ordinary high water mark (OHWM)) of the stream or tributary where listed species may be present?

*No*

12. Will the proposed project bore underneath (directional bore or horizontal directional drill) a stream where listed species may be present?

*No*

13. Will the proposed project involve a new point source discharge into a stream or change an existing point source discharge (e.g., outfalls; leachate ponds) where listed species may be present?

*No*

14. Will the proposed project involve the removal of excess sediment or debris, dredging or in-stream gravel mining where listed species may be present?

*No*

---

15. Will the proposed project involve the creation of a new water-borne contaminant source where listed species may be present?

**Note** New water-borne contaminant sources occur through improper storage, usage, or creation of chemicals. For example: leachate ponds and pits containing chemicals that are not NSF/ANSI 60 compliant have contaminated waterways. Sedimentation will be addressed in a separate question.

*No*

16. Will the proposed project involve perennial stream loss, in a stream or tributary of a stream where listed species may be present, that would require an individual permit under 404 of the Clean Water Act?

*No*

17. Will the proposed project involve blasting where listed species may be present?

*No*

18. Will the proposed project include activities that could result in an increase to recreational fishing or potentially affect fish movement temporarily or permanently (including fish stocking, harvesting, or creation of barriers to fish passage)?

*No*

19. Will the proposed project involve earth moving that could cause erosion and sedimentation, and/or contamination along a stream or tributary of a stream where listed species may be present?

**Note** Answer "Yes" to this question if erosion and sediment control measures will be used to protect the stream.

*Yes*

20. Will the proposed project involve vegetation removal within 200 feet of a perennial stream bank where listed species may be present?

*Yes*

21. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, be applied to the project? If BMPs have been provided by and/or coordinated with and approved by the appropriate Ecological Services Field Office, answer "Yes" to this question.

*Yes*

22. Will the proposed project result in changes to beach dynamics that may modify formation of habitat over time?

**Note:** Examples of projects that result in changes to beach dynamics include 1) construction of offshore breakwaters and groins; 2) mining of sand from an updrift ebb tidal delta; 3) removing or adding beach sands; and 4) projects that stabilize dunes (including placement of sand fences or planting vegetation).

*No*

23. [Hidden Semantic] Is the project area located within the red knot AOI?

**Automatically answered**

*Yes*

---

24. [Semantic] Does the project intersect the Virginia big-eared bat critical habitat?  
**Automatically answered**  
*No*
25. [Semantic] Does the project intersect the Indiana bat critical habitat?  
**Automatically answered**  
*No*
26. [Semantic] Does the project intersect the candy darter critical habitat?  
**Automatically answered**  
*No*
27. [Semantic] Does the project intersect the diamond darter critical habitat?  
**Automatically answered**  
*No*
28. [Semantic] Does the project intersect the Big Sandy crayfish critical habitat?  
**Automatically answered**  
*No*
29. [Hidden Semantic] Does the project intersect the Guyandotte River crayfish critical habitat?  
**Automatically answered**  
*No*
30. Do you have any other documents that you want to include with this submission?  
*No*
-



## PROJECT QUESTIONNAIRE

1. Approximately how many acres of trees would the proposed project remove?

*0*

2. Approximately how many total acres of disturbance are within the disturbance/  
construction limits of the proposed project?

*1*

3. Briefly describe the habitat within the construction/disturbance limits of the project site.

*Earth removal in order to install communication poles for an overhead crossing*

---

## **IPAC USER CONTACT INFORMATION**

Agency: KCI Technologies, Inc

Name: Katie Myers

Address: 936 Ridgebrook Road

City: Sparks

State: MD

Zip: 21152

Email: katherine.myers@kci.com

Phone: 4435954116

---



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Chesapeake Bay Ecological Services Field Office  
177 Admiral Cochrane Drive  
Annapolis, MD 21401-7307  
Phone: (410) 573-4599 Fax: (410) 266-9127

In Reply Refer To:  
Project Code: 2023-0086302  
Project Name: Route 36 Over Cedar Creek

May 25, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

## To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

**Migratory Birds:** In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

---

Attachment(s):

- Official Species List

## **OFFICIAL SPECIES LIST**

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**Chesapeake Bay Ecological Services Field Office**

177 Admiral Cochrane Drive

Annapolis, MD 21401-7307

(410) 573-4599

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## PROJECT SUMMARY

Project Code: 2023-0086302

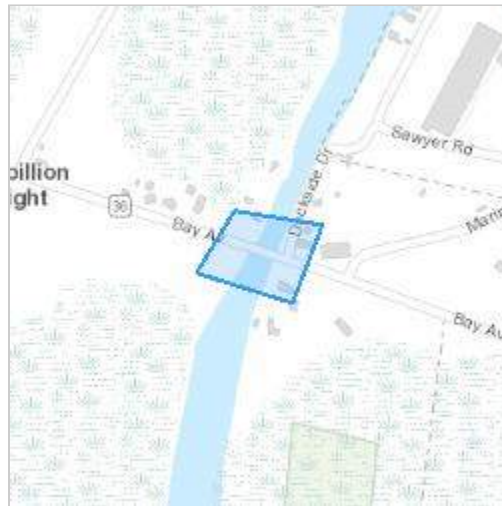
Project Name: Route 36 Over Cedar Creek

Project Type: Transmission Line - New Constr - Above Ground

Project Description: Verizon Wireless has contracted KCI Technologies, Inc to provide design engineering services for the Route 36 Over Cedar Creek Verizon overhead crossing in Milford, Delaware.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.93504405,-75.3238615391942,14z>



Counties: Sussex County, Delaware

---

## ENDANGERED SPECIES ACT SPECIES

There is a total of 2 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### BIRDS

NAME	STATUS
Red Knot <i>Calidris canutus rufa</i> There is <b>proposed</b> critical habitat for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a>	Threatened

### INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> <li>▪ The monarch is a candidate species and not yet listed or proposed for listing. There are generally no section 7 requirements for candidate species (FAQ found here: <a href="https://www.fws.gov/savethemonarch/FAQ-Section7.html">https://www.fws.gov/savethemonarch/FAQ-Section7.html</a>).</li> </ul> Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate

### CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

---



## **IPAC USER CONTACT INFORMATION**

Agency: KCI Technologies, Inc

Name: Katie Myers

Address: 936 Ridgebrook Road

City: Sparks

State: MD

Zip: 21152

Email: katherine.myers@kci.com

Phone: 4435954116

---

**Attachment 7**  
**DNREC Correspondence**



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL

DIVISION OF FISH & WILDLIFE  
RICHARDSON & ROBBINS BUILDING  
89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

DIRECTOR'S  
OFFICE

PHONE  
(302) 739-9910

September 6, 2023

Jennifer Bird  
KCI Technologies, Inc.  
936 Ridgebrook Rd  
Sparks, MD 21152

*Re: KCIT 2023 Verizon Crossing Route 36 Cedar Creek*

Dear Jennifer:

Thank you for contacting the Species Conservation and Research Program (SCRCP) about information on rare, threatened and endangered species, unique natural communities, and other significant natural resources as they relate to the above referenced project.

*State Natural Heritage Site*

A review of our database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at this project site. As a result, at present, this project does not lie within a State Natural Heritage Site, nor does it lie within a Delaware National Estuarine Research Reserve which are two criteria used to identify "Designated Critical Resource Waters" in the Army Corps of Engineers (ACOE) Nationwide Permit General Condition No. 22. A copy of this letter shall be included in any permit application or pre-construction notification submitted to the Army Corps of Engineers for activities on this property.

*Fisheries*

Cedar Creek provides spawning habitat for anadromous species including Blueback Herring (*Alosa aestivalis*), alewife (*Alosa pseudoharengus*), and White Perch (*Morone americana*). Alewife and blueback herring, often collectively referred to as 'river herring', are listed by the National Marine Fisheries Service as a Species of Concern. These species are also important to both commercial and recreational fisheries and form an important forage base for other animal species. We request a time of year restriction be put in place on in-water work activities. In-water work should not take place from **March 15<sup>th</sup> through June 30<sup>th</sup>**.

Cedar Creek is used by large numbers of American Eel (*Anguilla rostrata*). We request that in-water work not take place from **March 1<sup>st</sup> through May 15<sup>th</sup>** to allow upstream passage of elvers (young eels).

We are continually updating our records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information.

Please feel free to contact me with any questions or if you require additional information.

Sincerely,

A handwritten signature in black ink that reads "Danielle Ellis". The signature is written in a cursive, flowing style.

Danielle Ellis  
*Environmental Review Coordinator*  
Phone: (302) 223-2446  
6180 Hay Point Landing Road  
Smyrna, DE 19977

(See invoice on next page)

**Attachment 8**  
**DE SHPO Correspondence**

PENDING

**Attachment 9**  
**Coastal Zone Consistency**

PENDING

**Attachment 1**  
**Site Location Map**



**Study Area**

Fort Saulsbury

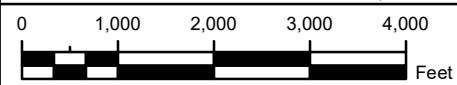
Mispillion Light

**Verizon at Cedar Creek**

**Attachment 1 - Site Location Map**

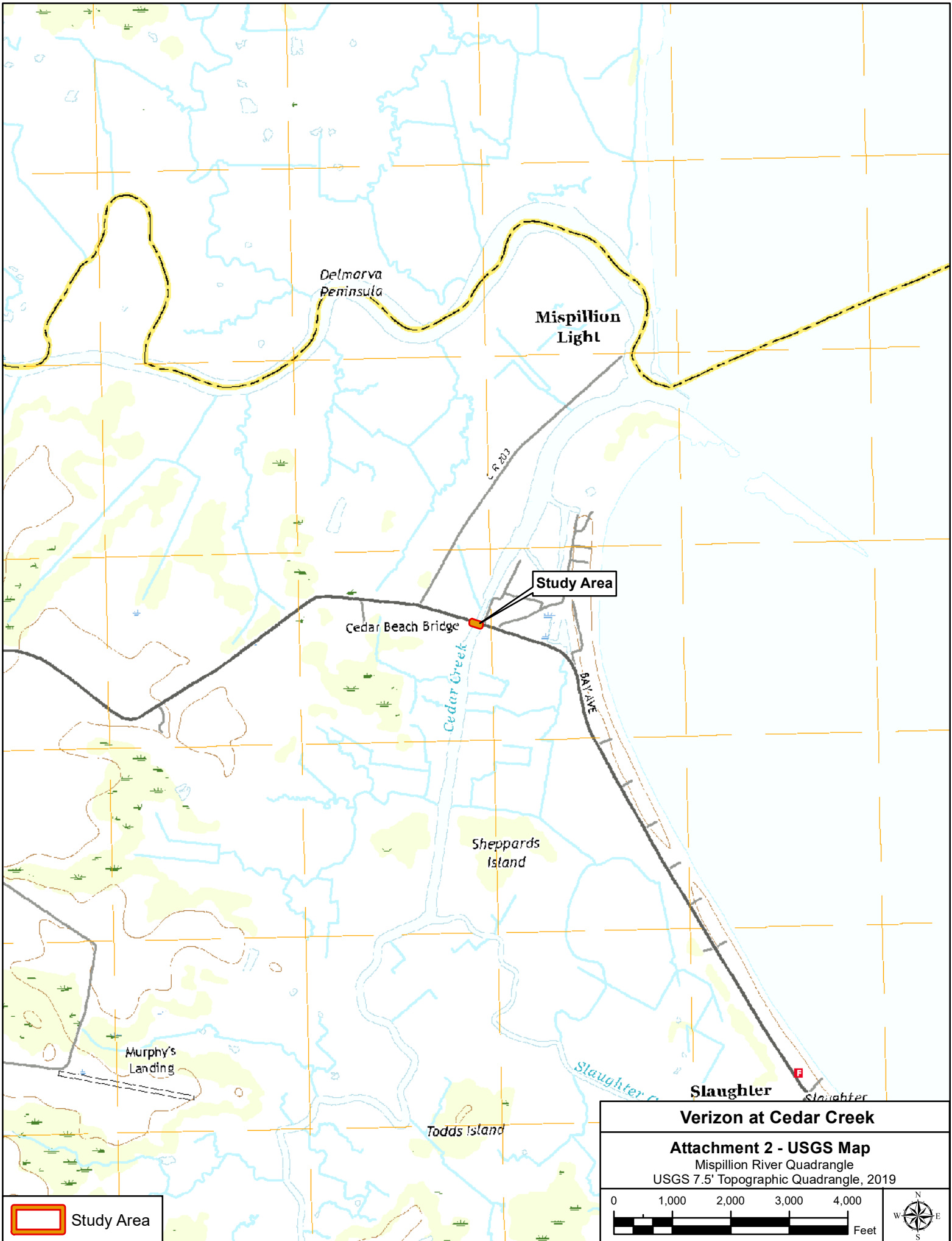
Sussex County, Delaware  
ESRI ArcGIS Basemaps

 Study Area





**Attachment 2**  
**USGS Map**




 Study Area

**Verizon at Cedar Creek**

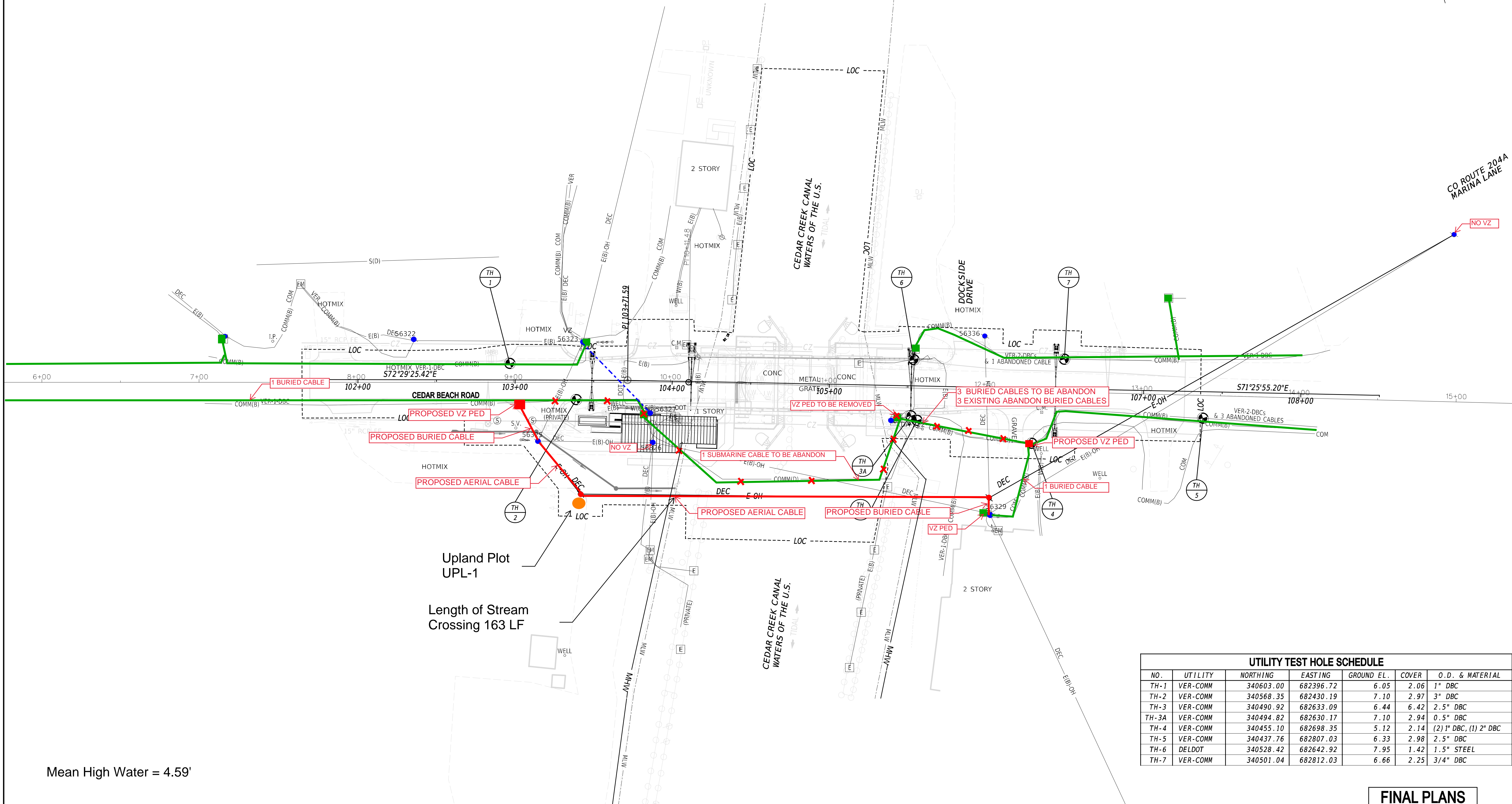
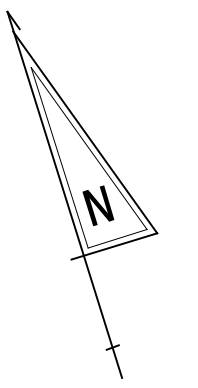
**Attachment 2 - USGS Map**  
Mispillion River Quadrangle  
USGS 7.5' Topographic Quadrangle, 2019

0 1,000 2,000 3,000 4,000  
Feet



**Attachment 3**  
**Site Plan/Impact Plan**

VERIZON FACILITIES IDENTIFIED ON THIS DRAWING ARE BASED ON COMPANY RECORDS AND LOCATIONS ARE APPROXIMATE. FOR EXACT LOCATIONS CONTACT MISS UTILITY.

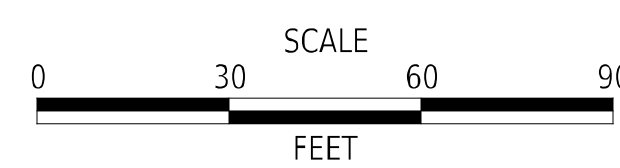


Mean High Water = 4.59'

UTILITY TEST HOLE SCHEDULE						
NO.	UTILITY	NORTHING	EASTING	GROUND EL.	COVER	O.D. & MATERIAL
TH-1	VER-COMM	340603.00	682396.72	6.05	2.06	1" DBC
TH-2	VER-COMM	340568.35	682430.19	7.10	2.97	3" DBC
TH-3	VER-COMM	340490.92	682633.09	6.44	6.42	2.5" DBC
TH-3A	VER-COMM	340494.82	682630.17	7.10	2.94	0.5" DBC
TH-4	VER-COMM	340455.10	682698.35	5.12	2.14	(2) 1" DBC, (1) 2" DBC
TH-5	VER-COMM	340437.76	682807.03	6.33	2.98	2.5" DBC
TH-6	DELDOT	340528.42	682642.92	7.95	1.42	1.5" STEEL
TH-7	VER-COMM	340501.04	682812.03	6.66	2.25	3/4" DBC

C:\PWORKING\AECOM\_DS21\_NA\_2020\0112279\UT000.DGN

ADDENDA / REVISIONS



**REPLACEMENT OF VERIZON FIBER  
SR 36 CEDAR BEACH ROAD**

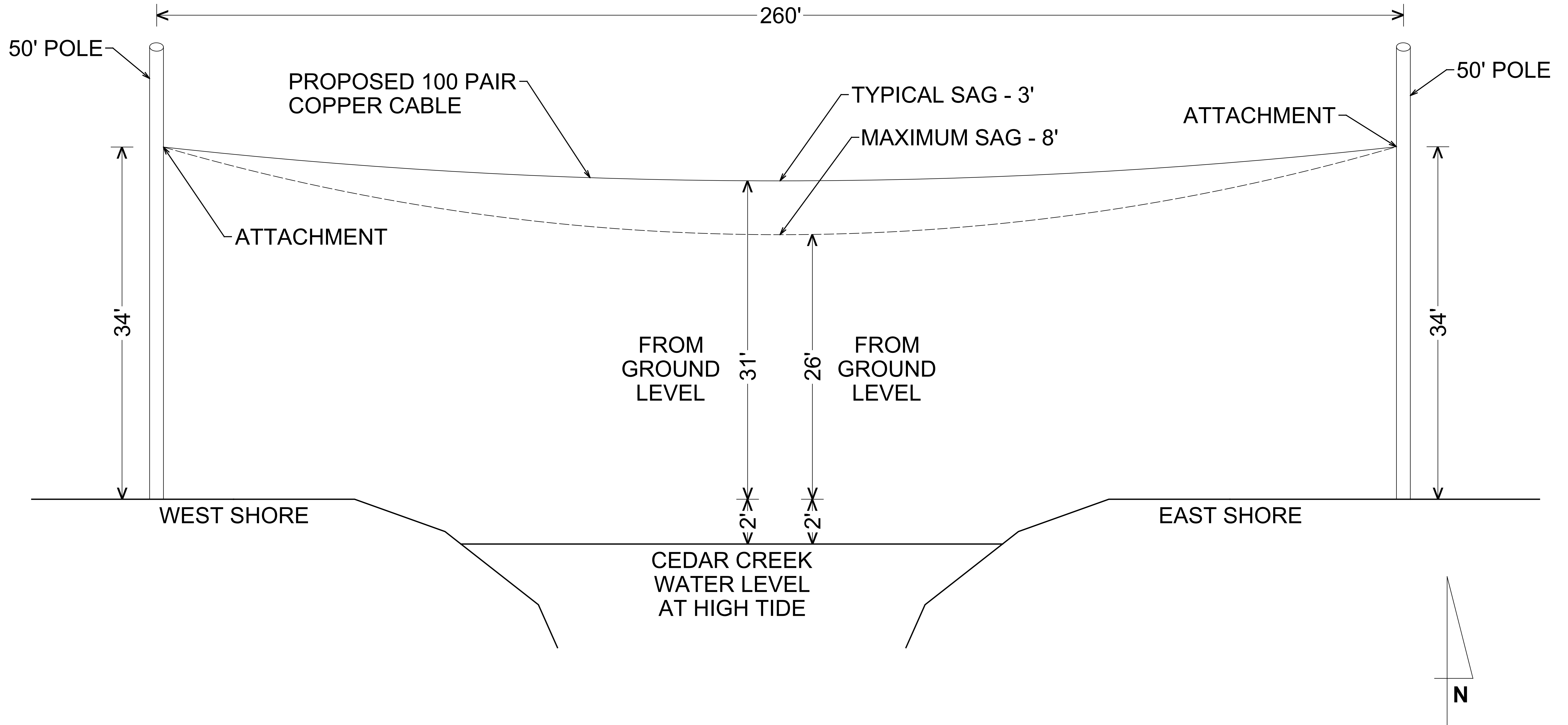
CONTRACT	BRIDGE NO.	<b>3-164</b>
T202007301	DESIGNED BY:	G. CORREALE
COUNTY	CHECKED BY:	G. PERDICK
SUSSEX		

**FINAL PLANS**

<b>UTILITY RELOCATION PLAN</b>		SECTION
		AEC
		SHEET NO.
		173

**Attachment 4**  
**Profile Plan**

VERIZON IS PROPOSING 1 AERIAL COPPER  
CABLE CROSSING CEDAR CREEK.  
THE MINIMUM SAG WOULD BE 3'  
THE MAXIMUM SAG WOULD BE 8'



**Attachment 5**  
**Wetland Delineation Memo**



ISO 9001:2008 CERTIFIED

ENGINEERS • PLANNERS • SCIENTISTS • CONSTRUCTION MANAGERS

936 Ridgebrook Road • Sparks, MD 21152 • Phone 410-316-7800 • Fax 410-316-7885

July 27, 2023

Mr. George Zang  
Verizon Delaware LLC  
2 Industrial Lane  
Milford, Delaware 19963

RE: Verizon Crossing of Cedar Creek  
Milford, Delaware

SUB: Wetland Delineation Memorandum

Dear Mr. Zang:

KCI Technologies, Inc. (KCI) is assisting with the environmental permitting required for the relocated crossing of a Verizon utility line across Cedar Creek in Milford, Delaware. Verizon proposes to install a new 100-pr overhead fiber line on new 50-foot tall poles over Cedar Creek in Milford, Delaware. New poles will be installed in uplands on either side of the creek. The new cable will be installed south of the SR 36 bridge. As part of this effort, KCI performed a wetland investigation to determine the presence of wetlands and other “waters of the United States” (WUS) systems within the study area. Resources throughout the study area were identified and delineated in accordance with the methodologies outlined in the *Corps of Engineers Wetlands Delineation Manual* (Environmental Laboratory, 1987), the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)* (Environmental Laboratory, 2010), and other relevant guidance documents.

This memorandum documents wetland and waterways conditions as field delineated on June 6, 2023, within the project area. Prior to the commencement of field activities, KCI reviewed readily available primary source materials to determine the presence or absence of natural resources within the study area.

### **Study Area and Description**

The project study area consists of a developed stream corridor that crosses SR 36. Cedar Creek is a tidal waterway that flows north through the study area, beneath SR 36 to its confluence with the Delaware Bay. The proposed Verizon line would be installed south of SR 36. A residential property is located east of Cedar Creek and a small park with a gravel road and parking area is located west of Cedar Creek.



## Findings

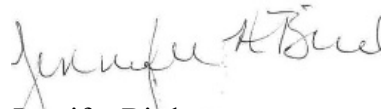
KCI performed a field reconnaissance to determine the presence or absence of wetland areas during June 2023. The field investigation identified one tidal stream in the study area. No wetlands were identified. A photolog is attached to this memorandum.

Cedar Creek is a tidal, perennial stream that flows north through the study area beneath SR 36. The stream is approximately 163 feet wide and the banks are lined with riprap. Boat docks are located within the stream. The stream corridor is developed with a residential property to the east and a small park to the west with a gravel road and parking area.

Typical vegetation noted in the project area included fleabane (*Erigeron annuus* [FACU]), common milkweed (*Asclepias syriaca* [UPL]), common reed (*Phragmites australis* [FACW]), wild rye (*Elymus* species), and grass species. The area was dry and the soils were compacted and disturbed with a gravel layer. No wetlands were identified.

Should you have any questions concerning these findings please do not hesitate to contact me at (410) 316-7959 or via email at [jennifer.bird@kci.com](mailto:jennifer.bird@kci.com).

Very truly yours,  
**KCI TECHNOLOGIES, INC.**



Jennifer Bird  
Senior Project Manager  
Natural Resources Management Practice

**Enclosures:** Attachment 1: Photolog

CC: File: 021800984AML



Photo 1: Location of proposed crossing over Cedar Creek, facing east from western streambank.



Photo 2: Upland area proposed for pole placement west of Cedar Creek.





Photo 3: Cedar Creek, facing north from western streambank.



Photo 4: Upland area west of Cedar Creek.

Project/Site: Verizon - Cedar Creek Crossing City/County: Milford, DE Sampling Date: 6/6/2023  
 Applicant/Owner: Verizon Delaware LLC State: DE Sampling Point: UPL-1  
 Investigator(s): JBIRD Section, Township, Range: \_\_\_\_\_  
 Landform (hillside, terrace, etc.): terrace Local relief (concave, convex, none): None Slope (%): 0  
 Subregion (LRR or MLRA): LRR T Lat: 38.934955 Long: -75.324192 Datum: NAD83  
 Soil Map Unit Name: Sunken mucky silt loam, 0-2% slopes (SuA) NWI classification: NA

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No \_\_\_\_\_ (If no, explain in Remarks.)  
 Are Vegetation \_\_\_\_\_, Soil X, or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? Yes X No \_\_\_\_\_  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

**SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.**

Hydrophytic Vegetation Present? Yes _____ No <u>X</u>	<b>Is the Sampled Area within a Wetland?</b>	Yes _____ No <u>X</u>
Hydric Soil Present? Yes _____ No <u>X</u>		Yes _____ No <u>X</u>
Wetland Hydrology Present? Yes _____ No <u>X</u>		Yes _____ No <u>X</u>

Remarks:  
 The sample plot was collected west of Cedar Creek in a disturbed park area. Despite the soil survey data, the soil was compacted with gravel and disturbed in the area of the proposed utility pole. No evidence of hydrology was observed. The area was classified as upland.

**HYDROLOGY**

<b>Wetland Hydrology Indicators:</b> Primary Indicators (minimum of one is required; check all that apply) <input type="checkbox"/> Surface Water (A1) <input type="checkbox"/> Aquatic Fauna (B13) <input type="checkbox"/> High Water Table (A2) <input type="checkbox"/> Marl Deposits (B15) <b>(LRR U)</b> <input type="checkbox"/> Saturation (A3) <input type="checkbox"/> Hydrogen Sulfide Odor (C1) <input type="checkbox"/> Water Marks (B1) <input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3) <input type="checkbox"/> Sediment Deposits (B2) <input type="checkbox"/> Presence of Reduced Iron (C4) <input type="checkbox"/> Drift Deposits (B3) <input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6) <input type="checkbox"/> Algal Mat or Crust (B4) <input type="checkbox"/> Thin Muck Surface (C7) <input type="checkbox"/> Iron Deposits (B5) <input type="checkbox"/> Other (Explain in Remarks) <input type="checkbox"/> Inundation Visible on Aerial Imagery (B7) <input type="checkbox"/> Water-Stained Leaves (B9)	Secondary Indicators (minimum of two required) <input type="checkbox"/> Surface Soil Cracks (B6) <input type="checkbox"/> Sparsely Vegetated Concave Surface (B8) <input type="checkbox"/> Drainage Patterns (B10) <input type="checkbox"/> Moss Trim Lines (B16) <input type="checkbox"/> Dry-Season Water Table (C2) <input type="checkbox"/> Crayfish Burrows (C8) <input type="checkbox"/> Saturation Visible on Aerial Imagery (C9) <input type="checkbox"/> Geomorphic Position (D2) <input type="checkbox"/> Shallow Aquitard (D3) <input type="checkbox"/> FAC-Neutral Test (D5) <input type="checkbox"/> Sphagnum Moss (D8) <b>(LRR T, U)</b>
---	---

<b>Field Observations:</b> Surface Water Present? Yes _____ No _____ Depth (inches): _____ Water Table Present? Yes _____ No _____ Depth (inches): _____ Saturation Present? Yes _____ No _____ Depth (inches): _____ (includes capillary fringe)	<b>Wetland Hydrology Present?</b> Yes _____ No <u>X</u>
---	---

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:  
 The sample plot did not satisfy the wetland hydrology criterion. The area was very dry.

**VEGETATION (Four Strata) – Use scientific names of plants.**

Sampling Point: UPL-1

<u>Tree Stratum</u> (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. _____	_____	_____	_____	<b>Dominance Test worksheet:</b> Number of Dominant Species That Are OBL, FACW, or FAC: <u>0</u> (A) Total Number of Dominant Species Across All Strata: <u>3</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>0.0%</u> (A/B)																
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
8. _____	_____	_____	_____																	
_____ = Total Cover				<b>Prevalence Index worksheet:</b> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">Total % Cover of:</td> <td style="width:50%;">Multiply by:</td> </tr> <tr> <td>OBL species <u>0</u></td> <td>x 1 = <u>0</u></td> </tr> <tr> <td>FACW species <u>10</u></td> <td>x 2 = <u>20</u></td> </tr> <tr> <td>FAC species <u>0</u></td> <td>x 3 = <u>0</u></td> </tr> <tr> <td>FACU species <u>10</u></td> <td>x 4 = <u>40</u></td> </tr> <tr> <td>UPL species <u>30</u></td> <td>x 5 = <u>150</u></td> </tr> <tr> <td>Column Totals: <u>50</u> (A)</td> <td><u>210</u> (B)</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = <u>4.20</u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u>0</u>	x 1 = <u>0</u>	FACW species <u>10</u>	x 2 = <u>20</u>	FAC species <u>0</u>	x 3 = <u>0</u>	FACU species <u>10</u>	x 4 = <u>40</u>	UPL species <u>30</u>	x 5 = <u>150</u>	Column Totals: <u>50</u> (A)	<u>210</u> (B)	Prevalence Index = B/A = <u>4.20</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>0</u>	x 1 = <u>0</u>																			
FACW species <u>10</u>	x 2 = <u>20</u>																			
FAC species <u>0</u>	x 3 = <u>0</u>																			
FACU species <u>10</u>	x 4 = <u>40</u>																			
UPL species <u>30</u>	x 5 = <u>150</u>																			
Column Totals: <u>50</u> (A)	<u>210</u> (B)																			
Prevalence Index = B/A = <u>4.20</u>																				
50% of total cover: _____ 20% of total cover: _____																				
<u>Sapling/Shrub Stratum</u> (Plot size: _____)																				
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
8. _____	_____	_____	_____																	
_____ = Total Cover																				
50% of total cover: _____ 20% of total cover: _____																				
<u>Herb Stratum</u> (Plot size: <u>30</u> )																				
1. <u>Erigeron annuus</u>	<u>10</u>	<u>No</u>	<u>FACU</u>	<sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic. <b>Definitions of Four Vegetation Strata:</b> <b>Tree</b> – Woody plants, excluding vines, 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height. <b>Sapling/Shrub</b> – Woody plants, excluding vines, less than 3 in. DBH and greater than 3.28 ft (1 m) tall. <b>Herb</b> – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall. <b>Woody Vine</b> – All woody vines greater than 3.28 ft in height.																
2. <u>Asclepias syriaca</u>	<u>30</u>	<u>Yes</u>	<u>UPL</u>																	
3. <u>Elymus</u>	<u>20</u>	<u>Yes</u>	_____																	
4. <u>Festuca</u>	<u>30</u>	<u>Yes</u>	_____																	
5. <u>Phragmites australis</u>	<u>10</u>	<u>No</u>	<u>FACW</u>																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
8. _____	_____	_____	_____																	
9. _____	_____	_____	_____																	
10. _____	_____	_____	_____																	
11. _____	_____	_____	_____																	
12. _____	_____	_____	_____																	
_____ = Total Cover																				
50% of total cover: <u>50</u> 20% of total cover: <u>20</u>																				
<u>Woody Vine Stratum</u> (Plot size: _____)																				
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
_____ = Total Cover																				
50% of total cover: _____ 20% of total cover: _____																				
<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:60%;"><b>Hydrophytic Vegetation Present?</b></td> <td style="width:20%; text-align: center;"><b>Yes</b> _____</td> <td style="width:20%; text-align: center;"><b>No</b> <u>X</u></td> </tr> </table>				<b>Hydrophytic Vegetation Present?</b>	<b>Yes</b> _____	<b>No</b> <u>X</u>														
<b>Hydrophytic Vegetation Present?</b>	<b>Yes</b> _____	<b>No</b> <u>X</u>																		

Remarks: (If observed, list morphological adaptations below.)  
 The sample plot does not satisfy the hydrophytic vegetation criterion.

**SOIL**

Sampling Point: UPL-1

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

**Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)**

- Histosol (A1)
- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5)
- Organic Bodies (A6) (LRR P, T, U)
- 5 cm Mucky Mineral (A7) (LRR P, T, U)
- Muck Presence (A8) (LRR U)
- 1 cm Muck (A9) (LRR P, T)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Coast Prairie Redox (A16) (MLRA 150A)
- Sandy Mucky Mineral (S1) (LRR O, S)
- Sandy Gleyed Matrix (S4)
- Sandy Redox (S5)
- Stripped Matrix (S6)
- Dark Surface (S7) (LRR P, S, T, U)
- Polyvalue Below Surface (S8) (LRR S, T, U)
- Thin Dark Surface (S9) (LRR S, T, U)
- Barrier Islands 1 cm Muck (S12) (MLRA 153B, 153D)
- Loamy Mucky Mineral (F1) (LRR O)
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)
- Marl (F10) (LRR U)
- Depleted Ochric (F11) (MLRA 151)
- Iron-Manganese Masses (F12) (LRR O, P, T)
- Umbric Surface (F13) (LRR P, T, U)
- Delta Ochric (F17) (MLRA 151)
- Reduced Vertic (F18) (MLRA 150A, 150B)
- Piedmont Floodplain Soils (F19) (MLRA 149A)
- Anomalous Bright Floodplain Soils (F20) (MLRA 149A, 153C, 153D)
- Very Shallow Dark Surface (F22) (MLRA 138, 152A in FL, 154)

**Indicators for Problematic Hydric Soils<sup>3</sup>:**

- 1 cm Muck (A9) (LRR O)
- 2 cm Muck (A10) (LRR S)
- Coast Prairie Redox (A16) (outside MLRA 150A)
- Reduced Vertic (F18) (outside MLRA 150A, 150B)
- Piedmont Floodplain Soils (F19) (LRR P, T)
- Anomalous Bright Floodplain Soils (F20) (MLRA 153B)
- Red Parent Material (F21)
- Very Shallow Dark Surface (F22) (outside MLRA 138, 152A in FL, 154)
- Barrier Islands Low Chroma Matrix (TS7) (MLRA 153B, 153D)
- Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if observed):**

Type: \_\_\_\_\_  
 Depth (inches): \_\_\_\_\_

Hydric Soil Present?      Yes \_\_\_\_\_ No \_\_\_\_\_

**Remarks:**

Soils were not collected as the soil was disturbed and compacted.

**Attachment 6**  
**USFWS Coordination**

## Jennifer Bird

---

**From:** Clark, Trevor <trevor\_clark@fws.gov>  
**Sent:** Friday, July 7, 2023 4:31 PM  
**To:** Jennifer Bird  
**Subject:** [External Email] Re: [EXTERNAL] Consistency Letter question

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

\*\*\*From IT@KCI.COM 410-316-7820 \*\*\* This is an External Email from outside of KCI.\*\*\*

---

Hi Jenn,

The Route 36 Over Cedar Creek project will have "no effect" on the federally threatened red knot (*Calidris canutus rufa*). In addition, the monarch butterfly (*Danaus plexippus*) is a candidate species and not yet listed or proposed for listing. There are no section 7 requirements for candidate species.

Thanks Jenn.

Trevor Clark  
Fish and Wildlife Biologist/Transportation Liaison  
U.S. Fish and Wildlife Service  
Chesapeake Bay Ecological Services Field Office  
Endangered and Threatened Species Branch  
177 Admiral Cochrane Drive  
Annapolis, Maryland 21401

Cell phone: (410) 458-5657  
Telephone: (410) 573-4527  
Fax: (410) 269-0832

Email: [trevor\\_clark@fws.gov](mailto:trevor_clark@fws.gov)

---

**From:** Jennifer Bird <Jennifer.Bird@kci.com>  
**Sent:** Thursday, July 6, 2023 9:59 AM  
**To:** Clark, Trevor <trevor\_clark@fws.gov>  
**Subject:** RE: [EXTERNAL] Consistency Letter question

Hi Trevor, I just wanted to check back in, do you have any concerns about the red knot at Rt 365 in Milford DE? Thanks!

Jenn

---

**From:** Jennifer Bird  
**Sent:** Friday, June 9, 2023 11:27 AM  
**To:** Clark, Trevor <trevor\_clark@fws.gov>  
**Subject:** RE: [EXTERNAL] Consistency Letter question





## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Chesapeake Bay Ecological Services Field Office  
177 Admiral Cochrane Drive  
Annapolis, MD 21401-7307  
Phone: (410) 573-4599 Fax: (410) 266-9127

In Reply Refer To:  
Project code: 2023-0086302  
Project Name: Route 36 Over Cedar Creek

May 25, 2023

Federal Nexus: no  
Federal Action Agency (if applicable):

Subject: Technical assistance for 'Route 36 Over Cedar Creek'

Dear Katie Myers:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on May 25, 2023, for "Route 36 Over Cedar Creek" (here forward, Project). This project has been assigned Project Code 2023-0086302 and all future correspondence should clearly reference this number.

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into the IPaC must accurately represent the full scope and details of the Project. Failure to accurately represent or implement the Project as detailed in IPaC or the Northeast Determination Key (Dkey), invalidates this letter. To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), to a federally listed species or designated critical habitat.

Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17). Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no further consultation with, or concurrence from, the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required (except when the Service concurs, in writing, that a proposed action "is

not likely to adversely affect (NLAA)" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

The IPaC results indicated the following species is (are) potentially present in your project area and, based on your responses to the Service's Northeast DKey, you determined the proposed Project will have the following effect determinations:

<b>Species</b>	<b>Listing Status</b>	<b>Determination</b>
Red Knot ( <i>Calidris canutus rufa</i> )	Threatened	May affect

**Consultation with the Service is not complete.** Further consultation or coordination with the Service is necessary for those species or designated critical habitats with a determination of "May Affect". Please contact our Chesapeake Bay Ecological Services Field Office to discuss methods to avoid or minimize potential adverse effects to those species or designated critical habitats.

In addition to the species listed above, the following species and/or critical habitats may also occur in your project area and are not covered by this conclusion:

- Monarch Butterfly *Danaus plexippus* Candidate

Please Note: If the Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) by the prospective permittee may be required. Please contact the Migratory Birds Permit Office, (413) 253-8643, or [PermitsR5MB@fws.gov](mailto:PermitsR5MB@fws.gov), with any questions regarding potential impacts to Eagles.

If you have any questions regarding this letter or need further assistance, please contact the Chesapeake Bay Ecological Services Field Office and reference the Project Code associated with this Project.

---

**Action Description**

You provided to IPaC the following name and description for the subject Action.

**1. Name**

Route 36 Over Cedar Creek

**2. Description**

The following description was provided for the project 'Route 36 Over Cedar Creek':

Verizon Wireless has contracted KCI Technologies, Inc to provide design engineering services for the Route 36 Over Cedar Creek Verizon overhead crossing in Milford, Delaware.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.93504405,-75.3238615391942,14z>



## QUALIFICATION INTERVIEW

1. As a representative of this project, do you agree that all items submitted represent the complete scope of the project details and you will answer questions truthfully?

*Yes*

2. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed species?

**Note:** This question could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered, or proposed species.

*No*

3. Is the action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

*No*

4. Will the proposed project involve the use of herbicide where listed species are present?

*No*

5. Are there any caves or anthropogenic features suitable for hibernating or roosting bats within the area expected to be impacted by the project?

*No*

6. Does any component of the project associated with this action include structures that may pose a collision risk to **birds** (e.g., land-based or offshore wind turbines, communication towers, high voltage transmission lines, any type of towers with or without guy wires)?

**Note:** For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

*Yes*

7. Does any component of the project associated with this action include structures that may pose a collision risk to **bats** (e.g., land-based wind turbines)?

**Note:** For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

*No*

---

8. Will the proposed project result in permanent changes to water quantity in a stream or temporary changes that would be sufficient to result in impacts to listed species?

For example, will the proposed project include any activities that would alter stream flow, such as water withdrawal, hydropower energy production, impoundments, intake structures, diversion structures, and/or turbines? Projects that include temporary and limited water reductions that will not displace listed species or appreciably change water availability for listed species (e.g. listed species will experience no changes to feeding, breeding or sheltering) can answer "No". Note: This question refers only to the amount of water present in a stream, other water quality factors, including sedimentation and turbidity, will be addressed in following questions.

*No*

9. Will the proposed project affect wetlands where listed species are present?

This includes, for example, project activities within wetlands, project activities within 300 feet of wetlands that may have impacts on wetlands, water withdrawals and/or discharge of contaminants (even with a NPDES).

*No*

10. Will the proposed project activities (including upland project activities) occur within 0.5 miles of the water's edge of a stream or tributary of a stream where listed species may be present?

*No*

11. Will the proposed project directly affect a streambed (below ordinary high water mark (OHWM)) of the stream or tributary where listed species may be present?

*No*

12. Will the proposed project bore underneath (directional bore or horizontal directional drill) a stream where listed species may be present?

*No*

13. Will the proposed project involve a new point source discharge into a stream or change an existing point source discharge (e.g., outfalls; leachate ponds) where listed species may be present?

*No*

14. Will the proposed project involve the removal of excess sediment or debris, dredging or in-stream gravel mining where listed species may be present?

*No*

---

15. Will the proposed project involve the creation of a new water-borne contaminant source where listed species may be present?

**Note** New water-borne contaminant sources occur through improper storage, usage, or creation of chemicals. For example: leachate ponds and pits containing chemicals that are not NSF/ANSI 60 compliant have contaminated waterways. Sedimentation will be addressed in a separate question.

*No*

16. Will the proposed project involve perennial stream loss, in a stream or tributary of a stream where listed species may be present, that would require an individual permit under 404 of the Clean Water Act?

*No*

17. Will the proposed project involve blasting where listed species may be present?

*No*

18. Will the proposed project include activities that could result in an increase to recreational fishing or potentially affect fish movement temporarily or permanently (including fish stocking, harvesting, or creation of barriers to fish passage)?

*No*

19. Will the proposed project involve earth moving that could cause erosion and sedimentation, and/or contamination along a stream or tributary of a stream where listed species may be present?

**Note** Answer "Yes" to this question if erosion and sediment control measures will be used to protect the stream.

*Yes*

20. Will the proposed project involve vegetation removal within 200 feet of a perennial stream bank where listed species may be present?

*Yes*

21. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, be applied to the project? If BMPs have been provided by and/or coordinated with and approved by the appropriate Ecological Services Field Office, answer "Yes" to this question.

*Yes*

22. Will the proposed project result in changes to beach dynamics that may modify formation of habitat over time?

**Note:** Examples of projects that result in changes to beach dynamics include 1) construction of offshore breakwaters and groins; 2) mining of sand from an updrift ebb tidal delta; 3) removing or adding beach sands; and 4) projects that stabilize dunes (including placement of sand fences or planting vegetation).

*No*

23. [Hidden Semantic] Is the project area located within the red knot AOI?

**Automatically answered**

*Yes*

---

24. [Semantic] Does the project intersect the Virginia big-eared bat critical habitat?  
**Automatically answered**  
*No*
25. [Semantic] Does the project intersect the Indiana bat critical habitat?  
**Automatically answered**  
*No*
26. [Semantic] Does the project intersect the candy darter critical habitat?  
**Automatically answered**  
*No*
27. [Semantic] Does the project intersect the diamond darter critical habitat?  
**Automatically answered**  
*No*
28. [Semantic] Does the project intersect the Big Sandy crayfish critical habitat?  
**Automatically answered**  
*No*
29. [Hidden Semantic] Does the project intersect the Guyandotte River crayfish critical habitat?  
**Automatically answered**  
*No*
30. Do you have any other documents that you want to include with this submission?  
*No*
-

## PROJECT QUESTIONNAIRE

1. Approximately how many acres of trees would the proposed project remove?  
*0*
  2. Approximately how many total acres of disturbance are within the disturbance/  
construction limits of the proposed project?  
*1*
  3. Briefly describe the habitat within the construction/disturbance limits of the project site.  
*Earth removal in order to install communication poles for an overhead crossing*
-



## **IPAC USER CONTACT INFORMATION**

Agency: KCI Technologies, Inc

Name: Katie Myers

Address: 936 Ridgebrook Road

City: Sparks

State: MD

Zip: 21152

Email: katherine.myers@kci.com

Phone: 4435954116

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# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Chesapeake Bay Ecological Services Field Office  
177 Admiral Cochrane Drive  
Annapolis, MD 21401-7307  
Phone: (410) 573-4599 Fax: (410) 266-9127

In Reply Refer To:  
Project Code: 2023-0086302  
Project Name: Route 36 Over Cedar Creek

May 25, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

## To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

**Migratory Birds:** In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

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Attachment(s):

- Official Species List

## **OFFICIAL SPECIES LIST**

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**Chesapeake Bay Ecological Services Field Office**

177 Admiral Cochrane Drive

Annapolis, MD 21401-7307

(410) 573-4599

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## PROJECT SUMMARY

Project Code: 2023-0086302  
Project Name: Route 36 Over Cedar Creek  
Project Type: Transmission Line - New Constr - Above Ground  
Project Description: Verizon Wireless has contracted KCI Technologies, Inc to provide design engineering services for the Route 36 Over Cedar Creek Verizon overhead crossing in Milford, Delaware.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.93504405,-75.3238615391942,14z>



Counties: Sussex County, Delaware

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## ENDANGERED SPECIES ACT SPECIES

There is a total of 2 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### BIRDS

NAME	STATUS
Red Knot <i>Calidris canutus rufa</i> There is <b>proposed</b> critical habitat for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a>	Threatened

### INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> <li>▪ The monarch is a candidate species and not yet listed or proposed for listing. There are generally no section 7 requirements for candidate species (FAQ found here: <a href="https://www.fws.gov/savethemonarch/FAQ-Section7.html">https://www.fws.gov/savethemonarch/FAQ-Section7.html</a>).</li> </ul> Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate

### CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

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## **IPAC USER CONTACT INFORMATION**

Agency: KCI Technologies, Inc

Name: Katie Myers

Address: 936 Ridgebrook Road

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State: MD

Zip: 21152

Email: katherine.myers@kci.com

Phone: 4435954116

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