

**APPROVED JURISDICTIONAL DETERMINATION FORM**  
**U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** March 21, 2022

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2020-02322-DDP (MnDOT SP 2609-28) (MnDOT / SP 2609-28 / TH 55 Elbow Lake to Barrett)

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: MN County/parish/borough: Grant City: Elbow Lake/Barrett  
Center coordinates of site (lat/long in degree decimal format): Lat. 45.95182° N, Long. -95.934218° E.  
Universal Transverse Mercator:

Name of nearest waterbody: Pomme de Terre River

Name of watershed or Hydrologic Unit Code (HUC): (07020002) Upper Mississippi Region and (09020102) Souris-Red-Rainy Region

- ☐ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.  
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

- ☒ Office (Desk) Determination. Date: March 9, 2022  
☐ Field Determination. Date(s):

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There are no “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There are no “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

**1. Waters of the U.S.:** N/A

**2. Non-regulated waters/wetlands (check if applicable):<sup>1</sup>**

☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **SP 2609-28 / TH 55 review area contains 34 aquatic features for review. The majority of the review area consists of urban and agricultural land use. Based on an analysis of multiple years of aerial photography, web soil survey data, USGS topographic mapping, NWI mapping and the November 9th 2020 Bolton & Menk TH-55 reconstruction project wetland delineation report, The Corps has determined that wetlands 2, 3, 4c, 5b, 5d, 6d, 7a, 7c, 8a, 8b, 9e 13n, 14, 15a, 15c, 17a, 18b, 18c, 18d, 18e, 18f, 18g, 18i, 18j, 18k, 18l, 18m, 18n, 19a, 19b, 20a, 20b, 20e and 21 are not jurisdictional.**

**Wetlands 2, 3, 5b, 5d, 6d, 7a, 7c, 8a, 8b, 9e 13n, 14, 15a, 15c, 17a, 18b, 18c, 18d, 18e, 18f, 18g, 18i, 18j, 18k, 18l, 18m, 18n, 19a, 19b, 20a, 20b, 20e and 21 are best described as linear roadside drainage features excavated in uplands during the initial construction of TH 55. Some wetlands along the northbound side of TH55 are depicted as extending beyond the area of review but are confined by the railroad grade to the east. These wetlands are still being considered linear wet ditch features because they were likely constructed in uplands as a result of the combined roadway (TH55) and railway construction. The footprint for these resources is likely expanded due to the development of the two transportation facilities in close proximity to each other and this is not depicted well on the provided figures. Following a review of the NWI and hydric soils maps of the corridor there is no indication that these wetlands are part of a larger complex with separated adjacency. Therefore, in accordance with the 33CFR 1986 preamble section 328.3, the aforementioned aquatic features are not within the Corps jurisdiction because they were constructed in uplands, drain only uplands and do not have relatively permanent flow.**

**Wetlands 4c is best described as Stormwater drainage basin created during the initial construction of TH 55 through the excavation of dry land. Wetlands 4c was designed to collect and retain stormwater runoff for the purposes of**

<sup>1</sup> Supporting documentation is presented in Section III.F.

sediment capture and groundwater infiltration. In accordance with the 33CFR 1986 preamble section 328.3, these aquatic resources not generally considered waters of the United States.

### **SECTION III: CWA ANALYSIS**

A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A

C. SIGNIFICANT NEXUS DETERMINATION: N/A

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- ☒ Other (explain, if not covered above): **See Section II.B.2.**

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☒ Other non-wetland waters: acres. List type of aquatic resource: Wetlands 2, 3, 4c, 5b, 5d, 6d, 7a, 7c, 8a, 8b, 9e 13n, 14, 15a, 15c, 17a, 18b, 18c, 18d, 18e, 18f, 18g, 18i, 18j, 18k, 18l, 18m, 18n, 19a, 19b, 20a, 20b, 20e and 21.
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

### **SECTION IV: DATA SOURCES.**

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: November 9th 2020 Bolton & Menk TH-55 reconstruction project wetland delineation report.

- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☒ U.S. Geological Survey Hydrologic Atlas:
  - ☒ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 1:24K Quad Name: Elbow Lake
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Grant County Soil Survey
- ☒ National wetlands inventory map(s). Cite name: CorpMaps layer viewed February 28, 2022
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): Aerial and other provided by the applicant and Google Earth 1985, 1991, 1992 2003, 2004, 2006, 2008, 2009, 2011, 2013, 2016 and 2022 viewed January 14, 2022.  
or ☐ Other (Name & Date):  
☐ Previous determination(s). File no. and date of response letter:  
☐ Applicable/supporting case law:  
☐ Applicable/supporting scientific literature:  
☐ Other information (please specify):

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**