



Determining Normal Water Level

Buffer Law Implementation Guidance

September 15, 2016

Purpose and Considerations

To provide guidance in identifying a Normal Water Level from which a buffer would be measured where there is no definable bank, to determine if adequate buffer is in place and a parcel is compliant with the Buffer Law (Minnesota Statutes [§103F.48](#), Riparian Protection and Water Quality Practices) and consistent with state shoreland standards (Minnesota Statutes [§103F.201 – 103F.227](#)) and Drainage Law (Minnesota Statutes, Chapter [103E](#)).

According to the Buffer Law buffers shall be measured as follows on a non-103E waterbody:

- a) *The width of a buffer must be measured from the top or crown of the bank. Where there is no definable bank, measurement must be from the edge of the normal water level.*

According to the Buffer Law “Normal Water Level” is defined as follows:

- a) *The level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.*

While the definitions are similar and in some instance may lead to the same point on the landscape (Flowage or Reservoirs as an example) it is important to note the definition of “Normal Water Level” is NOT the same as the Definition of Ordinary High Water level.

It is also important to note that there may be situations when a “Normal Water Level” may be higher on the landscape than an established OHWL. Particularly in an instance when the OHWL was established some time ago and water elevations have changed on a basin for a long enough time to change the vegetation. In these instance it is likely that if the OHWL was re-established it to would reflect the current conditions on site.

Implementation Guidance

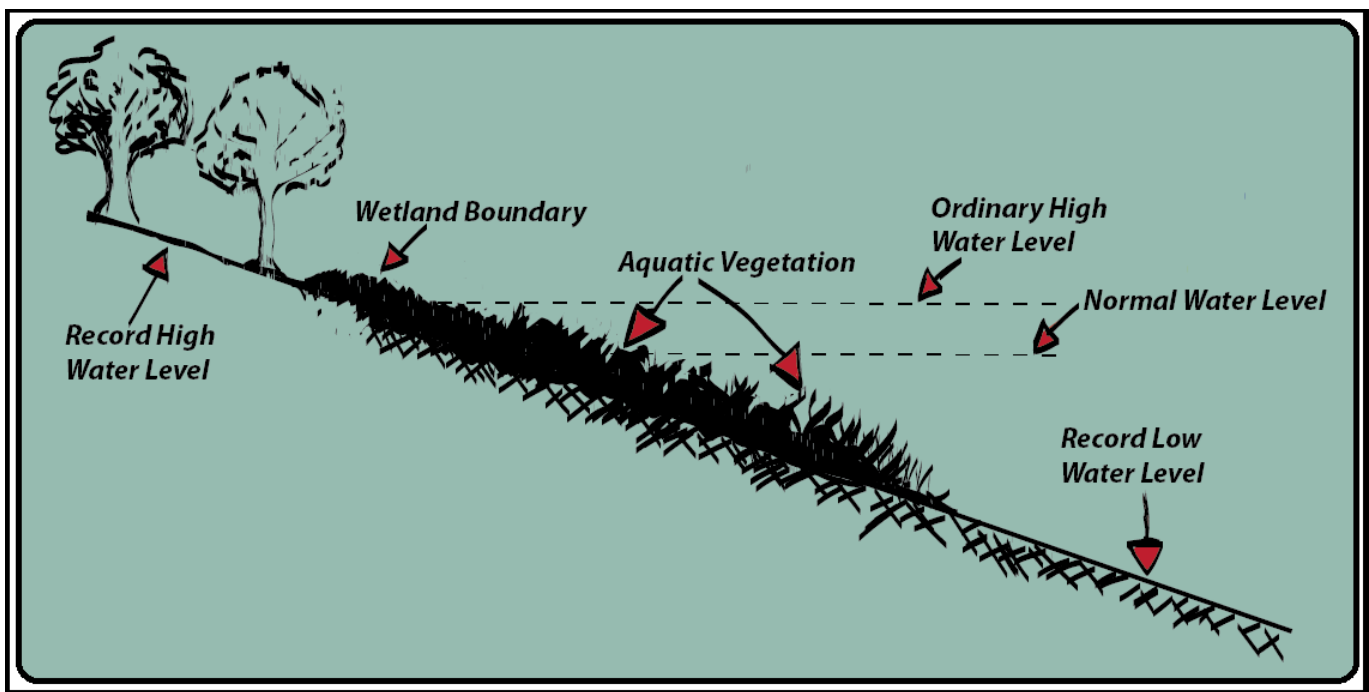
Field process for determining Normal Water Level (NWL) in a location where there is no definable bank.

■ **Reservoirs and Flowage.**

- The NWL is consistent with an OHWL of reservoirs and flowages and is the highest normal summer pool operating elevation described within the operating plan of the reservoir or flowage.
- The NWL is a single elevation and is,
 - The reservoir normal summer pool elevation when specified as a constant for the entire summer.
 - The NWL is the highest operating elevation if the normal summer pool is maintained as a range of elevations.

- **Basins with Culverts or a fixed Outlet Structure the NWL would be whichever is higher in the landscape**
 - Guidelines below for Basins with No Outlet Structure.
- Or**
- The NWL should be no lower than the elevation of the lowest functional outlet elevation for the basin.

- **Basins with NO Outlet Structure or in the absence of information related to outlets**
 - The NWL would typically be found *no higher* in the landscape than the upper edge of following wetland types;
 - Type 3
 - Type 6
 - Type 8
 - Under some situations the NWL could be further down slope based on strong physical evidence of a long term surface water boundary;



Wetland Types referenced above are based on do Circular 39 Minnesota Wetland types found here: http://www.bwsr.state.mn.us/wetlands/wca/Wetlands_in_MN.pdf

The following Wetland Community Classification Key should be used in identifying a wetland type boundary in the field based on vegetation.

http://www.bwsr.state.mn.us/wetlands/wca/Eggers_Reed_Wetland_Class_key.pdf