

👉 **13hr_SC-NR_sb0189_pt01**



👉 **06/05/2013 Public Hearing**

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2013-14

(Session)

Senate

(Assembly, Senate, or Joint)

**Committee on ...
Natural Resources
(SC-NR)**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (December/2014)

Senate

Record of Committee Proceedings

Natural Resources

Senate Bill 189

Relating to: a citation procedure applicable to wetland discharge violations, sturgeon spearing license issuance period, electronic methods for reporting natural resource and environmental law violations, publication of class 1 notices, air dispersion modeling requirements, and membership on the Dry Cleaner Environmental Response Council.

By Senator Kedzie; cosponsored by Representatives Mursau, A. Ott, Bies, Ballweg and Brooks.

May 23, 02013 Referred to Natural Resources

June 05, 2013 **Public Hearing Held**

Present: (4) Senator Kedzie; Senators Moulton, Tiffany and Miller.

Absent: (0) None.

Excused: (1) Senator Wirch.

Appearances For

- Jeff Mursau - Representative - 36th Assembly District
- Neal Kedzie - Senator - 11th Senate District

Appearances Against

- None.

Appearances for Information Only

- Andrew Stewart - WI Department of Natural Resources
- Mike Bruhn - WI Department of Natural Resources

Registrations For

- George Meyer - WI Wildlife Federation
- Erin O'Brien - WI Wetlands Association
- Eric Bott - WI Manufacturers and Commerce

Registrations Against

- None.

Registrations for Information Only

- None.

June 06, 2013

Executive Session Held

Present: (5) Senator Kedzie; Senators Moulton, Tiffany,
Miller and Wirch.

Absent: (0) None.

Excused: (0) None.

Moved by Senator Miller, seconded by Senator Tiffany that **LRB
a0560/1** be recommended for introduction and adoption.

Ayes: (5) Senator Kedzie; Senators Moulton, Tiffany,
Miller and Wirch.

Noes: (0) None.

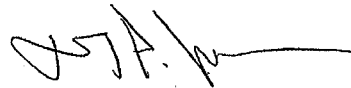
LRB a0560/1 INTRODUCTION AND ADOPTION
RECOMMENDED, Ayes 5, Noes 0

Moved by Senator Miller, seconded by Senator Tiffany that **Senate
Bill 189** be recommended for passage as amended.

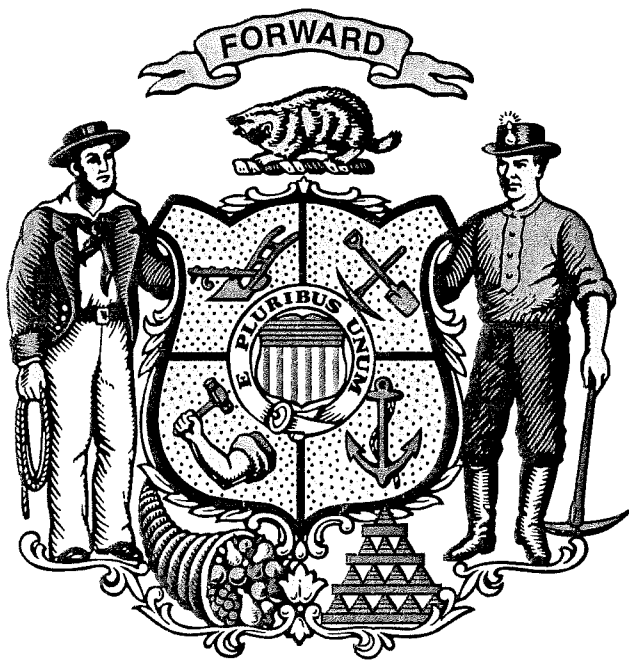
Ayes: (5) Senator Kedzie; Senators Moulton, Tiffany,
Miller and Wirch.

Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 5, Noes 0



Dan Johnson
Committee Clerk



Vote Record Natural Resources

Date: _____

Moved by: MILLER Seconded by: TIFF

AB _____ SB 189 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for: A/S AMENDED
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Neal Kedzie, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Terry Moulton, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Thomas Tiffany	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	_____	_____

Motion Carried Motion Failed

Vote Record Natural Resources

Date: _____
 Moved by: UNANIMOUS MILLER Seconded by: TIFFANY

AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

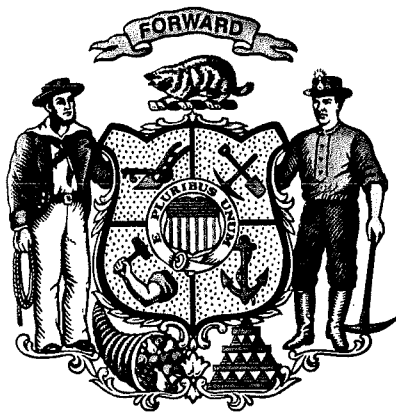
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TO SB 189

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Neal Kedzie, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Terry Moulton, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Thomas Tiffany	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	_____	_____

Motion Carried Motion Failed



Senate

PUBLIC HEARING

Natural Resources

The committee will hold a public hearing on the following items at the time specified below:

Wednesday, June 5, 2013
9:30 AM
300 Southeast
State Capitol

Assembly Bill 112

Relating to: telecommunications systems installed on tower sites under the management and control of the Department of Natural Resources and the suspension of portions of a rule of the Department of Natural Resources.

By joint committee for review of Administrative Rules.

Senate Bill 115

Relating to: telecommunications systems installed on tower sites under the management and control of the Department of Natural Resources and the suspension of portions of a rule of the Department of Natural Resources.

By joint committee for review of Administrative Rules.

Senate Bill 189

Relating to: a citation procedure applicable to wetland discharge violations, sturgeon spearing license issuance period, electronic methods for reporting natural resource and environmental law violations, publication of class 1 notices, air dispersion modeling requirements, and membership on the Dry Cleaner Environmental Response Council.

By Senator Kedzie; cosponsored by Representatives Mursau, A. Ott, Bies, Ballweg and Brooks.

Senate Bill 190

Relating to: the number of wastewater discharge permits required for a publicly owned sewage treatment facility or system.

By Senators Kedzie, Miller, Schultz, Jauch, Cowles, Shilling, T. Cullen, Grothman, Lehman, Vinehout and Hansen; cosponsored by Representatives A. Ott, Danou, Barnes, Berceau, Bernard Schaber, Bernier, Bewley, Bies, Billings, Brooks, Clark, Czaja, Goyke, Hesselbein, Kahl, Kaufert, Kleefisch, Kolste, Krug, LeMahieu, Loudonbeck, Milroy, Mursau, Nerison, Ohnstad, Petryk, Riemer, Ripp, Shankland, Smith, Tauchen, Tittl, Wachs, Jacque and Endsley.

Neal J. Kedzie

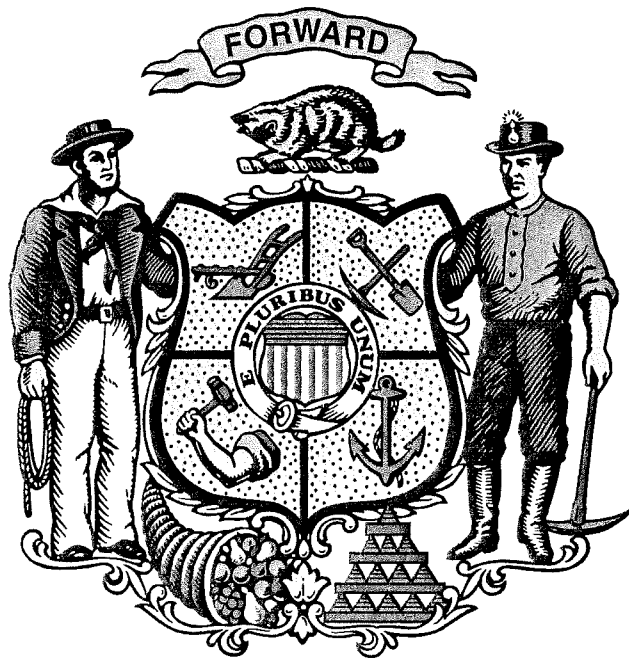
Senator Neal Kedzie
Chair

Summary
Bills

Andrew Stewart

DNR
to
testify

DNR
to
testify



Testimony of Senator Neal Kedzie
Senate Bill 189
Senate Natural Resources Committee
June 5, 2013

Good morning Mr. Chairman and members of the Committee. Thank you for your consideration of Senate Bill 189, which I am co-authoring with Representative Jeff Mursau.

At the beginning of this session, I met with staff from the Department of Natural Resources who had several requests for changes to current law, based either on technical matters, or slightly more substantive matters.

What is before you today is a culmination of those requests, many of which may be considered rather minor changes, but necessary all the same.

1. The change provides the DNR with the appropriate citation authority for wetland discharge violations in the 2011 Wisconsin Act 168, the new wetlands mitigation law.

The change fixes an oversight of a simple cross-reference in statute. We – and many others – became aware of this missed cross-reference well after the bill had been enacted into law, and this change should be supported by all interested parties.

2. SB 189 allows the DNR to publish certain public notices in a newspaper at the request of a permit applicant for a nominal fee.

Under the regulatory reform bill enacted last session, Class 1 notices could be published in a newspaper by the permit applicant if required to do so by the DNR.

However, the DNR proposed an idea to publish the notice on behalf at ~~and~~ ^{of the applicant} the request ^{at} of the applicant, so long as they could charge an appropriate fee for doing so.

The fee to publish the notice would be based on an average cost of publishing Chapter 30 notices in the state newspapers. By allowing for this provision, the permit process could be expedited.

3. The bill allows for citizen reports of environmental violations by electronic methods, and extends the current confidentiality protections to those types of reports.

As you know, technology in communications is always changing and sending a text message regarding an environmental law violation may be more efficient than making a phone call.

This bill would allow for that and extend the blanket of confidentiality to those types of reports sent electronically.

4. SB 189 changes the membership requirements of the Dry Cleaner Environmental Response Council from two members of a large operation and one member of a small operation, to simply "three members representing dry cleaning operations".

It is my understanding that filling the membership of this council based on the small operation criteria has been difficult. Either the smaller operators are not interested in serving, or there simply may not be enough small operators still in existence. Thus, the bill is simplified to eliminate the "small operator" criteria.

5. The bill makes a corresponding change regarding the minimum age for youth sturgeon spearing.

Under the Sporting Heritage bill enacted last session, the age for youth sturgeon spearing was appropriately changed in one section of the law {29.237 (1m)}, but missed in another section of the law {29.569 (3) (bm)}. Again, this change is simply technical.

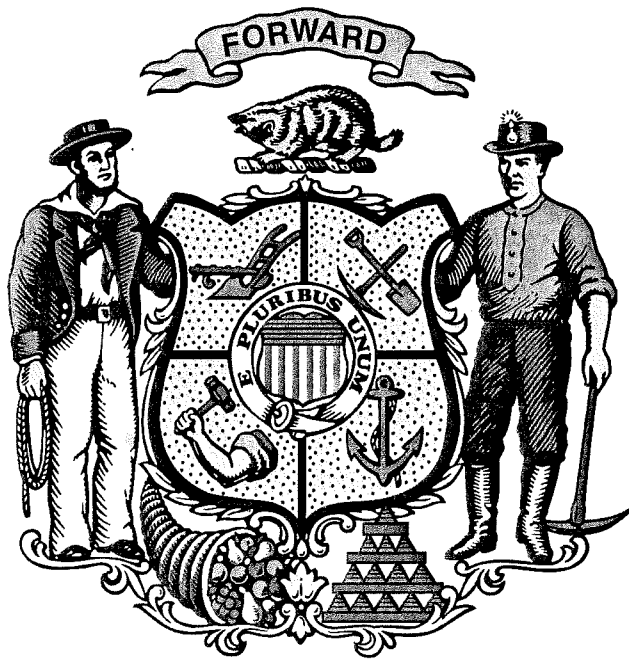
6. Finally, the bill clarifies that the DNR may continue requiring air dispersion modeling for minor sources of air pollution projects within the bounds of a binding agreement between the state and a tribal nation.

The regulatory reform bill enacted into law last session attempted to address this matter, but still allow for any agreements between the state and tribal nations. But, the language was somewhat broad and my Assembly co-author came forward with more specific language to address the issue.

In 1999, the State and the Forest County Potawatomi Community entered into a formal agreement that requires air dispersion modeling for certain minor air pollution sources within a certain distance of the center of Forest County.

This bill explicitly clarifies that the DNR may continue requiring air dispersion modeling minor source of air pollution projects within the bounds of the legally binding 1999 agreement.

Again, thank you for your consideration of Senate Bill 189 and I am happy to answer any questions you may have.

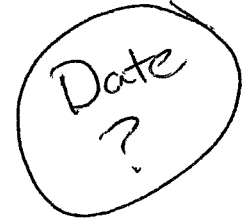




Jeff Mursau

STATE REPRESENTATIVE • 36TH ASSEMBLY DISTRICT

Testimony for 2013 Senate Bill 189



Senator Kedzie and Committee Members,

Thank you for hearing this bill today.

In 1999 the State of Wisconsin made an agreement with the Forest County Potawatomi Community to allow their comment on air permitting.

In 2012, the State of Wisconsin reformed how it handles a number of environmental regulations. Among the decisions by the State was to decide air modeling is:

- a) Not necessary for all minor air emitters; and
- b) An unnecessary cost to both the applicant and the department for no measurable benefit for minor air emitters or the communities they reside in or precede

The law changed to state, "The department is not required to use air dispersion modeling as a basis for making its findings ... for a minor source unless modeling is specifically provided for under the federal clean air act, rules promulgated under this chapter, or a federal or state agreement."

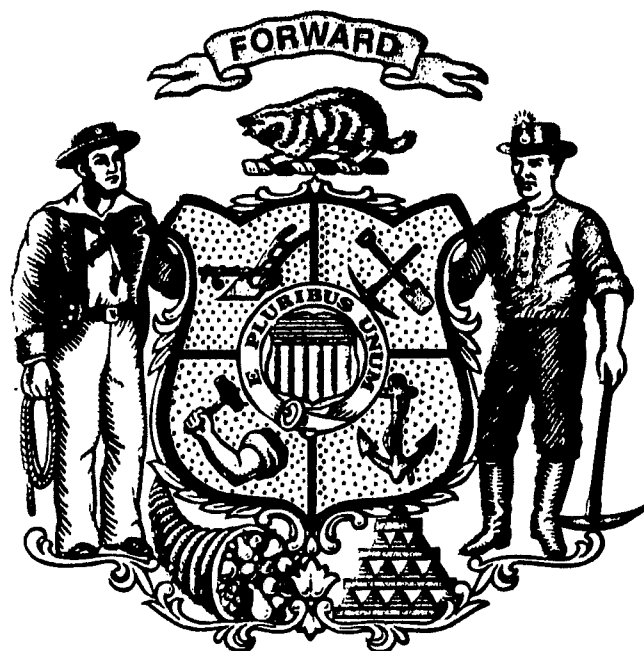
"... not required to use air dispersion modeling" in current statute leaves permission for DNR to require modeling when necessary.

While this language was very close to the desired version by all parties affected by it, true unanimity on the language was the desire. I worked with members of the Forest County Potawatomi Community, the Wisconsin Paper Council and Wisconsin Manufacturers & Commerce and the Department of Natural Resources to address sections 18 through 23 of this bill and to achieve unanimity.

The language included in SB 189 better reflects the desires of all interested parties affected by last year's legislation:

"except as specifically required under the federal clean air act or as provided in par. (b)" in the bill leaves permission for DNR to require modeling when it is necessary for both the Clean Air Act and for the 1999 agreement with the Forest County Potawatomi Community.

Thank you again for your consideration of this bill. I would be pleased to try to answer any questions you might have regarding this section of the bill.





June 5, 2013

Testimony for Senate Bill 189

Chairman Kedzie and Committee members, I want to thank you for the opportunity to testify on Senate Bill 189. The Department views Senate Bill 189 as a “clean-up” bill that addresses a number of smaller issues and drafting errors that Senator Kedzie and Representative Mursau are taking care of in one piece of legislation.

There are three provisions in Senate Bill 189 that the Department would classify, simply, as drafting errors. Last Session, the Sporting Heritage Act lowered the age to spear sturgeon from 14 to 12 years of age. The law changed the age correctly in 29.237 (1m), but unfortunately missed changing the age in 29.569 (3) (bm). Next, the new wetlands law passed last Session intended to give the DNR citation authority for minor wetland fills that may not rise to the level of a referral to the Department of Justice. This was a provision that many parties, including the Wisconsin Wetlands Association, advocated for inclusion in the final bill. This legislation fixes a cross reference to the Uniform Citation process found in 23.50, so that it cross-references 281.36, to give DNR the authority to use the 23.50 process in wetland enforcement. Finally, there was a drafting error contained in the public notice section of the Chapter 30 Regulatory Reform Act. This legislation corrects that error, and allows permit applicants, who are required to publish a class 1 public notice for certain Chapter 30 and wetland permits, to request the department publish the class 1 notice. The Department will charge the applicant the average cost of class 1 notices. This will allow the Department to begin the 30 day public comment period sooner, and ensure that permits are issued in a timely manner.

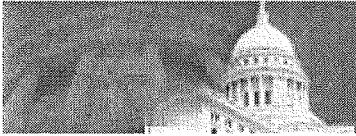
There are also a number of minor issues that are not the result of drafting errors. First, DNR’s Bureau of Law Enforcement has asked for an update to existing statutes, which protect the identity of people who use the DNR’s toll-free tip line. As technology changes, so too should the statutes. The protection of the identity of people who use e-mail, text, or other electronic means to alert the DNR of possible violations should be afforded the same confidentiality protection as people who use the toll-free hotline. (1-800-TIP-WDNR or 1-800-847-9367 - Confidentially report suspected wildlife, recreational, and environmental violations).

Next, SB 189 removes the requirement that one member of the Dry Cleaner Environmental Response Council in Chap. 15.347(2), represent dry cleaning operations with annual gross receipts of less than \$200,000. The \$200,000 threshold was established more than 15 years ago, and working with the industry; it has not been possible to find a member that meets this gross receipts criteria.

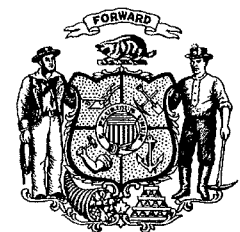
Finally, the Department finds the air dispersion modeling provision improves clarity, certainty, and customer service, without reducing our ability to protect the environment.

The bill clarifies that the Department’s Air Program may not require air pollution control permit applicants to perform air dispersion modeling before the Air Program acts on applications other than for major source construction permits. The Air Program will still need to demonstrate that ambient air quality standards and increments are not violated prior to issuing any air pollution control permit. For major source construction permits, applicants will still have to submit air dispersion modeling, as provided under the Federal Clean Air Act.

The bill also states that the Department may require an applicant to perform air dispersion modeling if such modeling is authorized under any agreement between the state and a federally recognized American Indian tribe or band, a federal tribal implementation plan, or administrative rules that cover tribal air interests. The terms of the above mechanisms may be used to implement air programs if the tribe has received treatment as a state status or tribal property has been designated as a class 1 area. This provision maintains the sovereignty of the tribes within the state and upholds any agreements into which the state has entered.



WISCONSIN STATE LEGISLATURE





214 N. Hamilton St. #201 Madison, WI 53703
Phone 608-250-9971 Fax 608-287-1179
www.wisconsinwetlands.org

Date ?

Citation Authority for Wetland Violations Will Reduce Unauthorized Wetland Development

Board of Directors

- Carl Sinderbrand
Chair
- Alison Peña
Vice Chair
- Penny Shackelford
Treasurer
- John Wetzel
Secretary
- Rich Eggleston
- R. Tod Highsmith
- Art Kitchen
- Eugene Roark
- Jim Ruwaldt

Wisconsin Wetlands Association supports the provisions in SB 189 which propose to extend the authority of DNR conservation wardens to issue citations for unauthorized wetland development.

The ability to issue tickets for wetland violations will help the state avoid the need to pursue more costly and controversial enforcement actions for smaller infractions. Citation authority will also help the Department educate the public about how to comply with wetland permit requirements. The Department has effectively used citation authority to enforce lake and river protection laws for many years, and SB 189 simply extends that authority to wetlands.

Staff

- Tracy Hames
Executive Director
- Katie Beilfuss
Outreach Programs Director
- Kyle Magyera
Wetland Policy Specialist
- Erin O'Brien
Wetland Policy Director
- Stephani Pescitelli
Office Manager & Programs Assistant
- Susan Kilmer
Member Services Assistant
- Ruth Smith
Conference Intern

The bill also clarifies the legislature's intent to establish wetland citation authority as part of 2011 Wisconsin Act 118. Wetland citation authority was one of the provisions of that bill that Wisconsin Wetlands Association strongly supported; however, due to a minor drafting error, the provisions as described in the bill analysis were not fully supported in the enacted statute.

We thank Senator Kedzie and Representative Mursau for recognizing and correcting this omission and for honoring their commitment to improve wetland regulatory compliance.

Questions about this statement can be directed to Policy Director, Erin O'Brien at: 608-250-9971 / erin.obrien@wisconsinwetlands.org

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Wisconsin Wetlands Association is dedicated to the protection, restoration and enjoyment of wetlands and associated ecosystems through science-based programs, education and advocacy. WWA is a non-profit 501(c)(3) organization.

