

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1007**

Save Lake Calhoun,
Appellant,

vs.

Sarah Strommen, et al.,
Respondents.

**Filed April 29, 2019
Reversed and remanded
Slieter, Judge**

Ramsey County District Court
File No. 62-CV-18-2891

Erick G. Kaardal, Mohrman, Kaardal & Erickson, P.A., Minneapolis, Minnesota (for appellant)

Keith Ellison, Attorney General, Christina M. Brown, Max Kieley, Assistant Attorneys General, St. Paul, Minnesota (for respondents)

Considered and decided by Schellhas, Presiding Judge; Slieter, Judge; and Stauber, Judge.*

S Y L L A B U S

I. A petition for a writ of *quo warranto* relief based on a governmental agency's decision may overcome dismissal pursuant to Minn. R. Civ. P. 12.02(e) upon a showing that the decision, even if final, constitutes an ongoing exercise of power.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

II. Pursuant to Minn. Stat. §§ 83A.01-.07 (2018), the commissioner of natural resources lacks authority to change a lake name which has existed for 40 years.

OPINION

SLIETER, Judge

Appellant challenges dismissal of its petition for writ of *quo warranto* under Minn. R. Civ. P. 12.02(e), arguing that the commissioner of natural resources exceeded his authority, pursuant to Minn. Stat. §§ 83A.01-.07, in changing the name of Lake Calhoun to Bde Maka Ska.¹ We reverse and remand.

FACTS

This matter relates to the name change of Minnesota Public Water No. 27-31, commonly known as Lake Calhoun (the lake). The precise date the lake obtained this name is unknown, but it is known as such in Henry Schoolcraft’s journals through the Northwestern region of the United States in 1821 and William Keating’s narrative account in 1884. Significant to this opinion, the parties do not dispute that the name of the lake was Lake Calhoun for more than 40 years.

In 2015, the Minneapolis Park and Recreation Board (park board) sought to change the lake name to Bde Maka Ska. Legal counsel for the park board, however, determined that the park board lacked the authority to change the name of the lake on its own. The

¹ The DNR commissioner at the time of issuing the “Names of Geographic Features Order” was Tom Landwehr. This court modified the caption while the matter was pending pursuant to Minn. R. Civ. App. P. 143.04 that the successor commissioner “is automatically substituted as a party” on appeal.

park board continued its effort to rename the lake through the Hennepin County Board of Commissioners (board of commissioners) and respondents Minnesota Department of Natural Resources and Commissioner of Natural Resources (together, DNR).² On October 1, 2015, the park board, after passing a resolution, changed signage around the lake to Bde Maka Ska.

On May 3, 2017, the park board approved the Calhoun/Bde Maka Ska-Harriet master plan (master plan). The master plan provides a 25-year vision for the area. A component of the master plan notes “the [p]ark [b]oard’s support for the restoration of the Dakota name Bde Maka Ska to Lake Calhoun.”

The board of commissioners entertained a petition from the park board to change the lake name to Bde Maka Ska, and it held a public hearing on October 17, 2017. DNR “through [their] agents or representatives, told the Hennepin County Board to follow the statutory process found under [Minn. Stat.] §§ 83A.05-.07.” Minn. Stat. §§ 83A.05-.07 apply to the changing and giving names to bodies of water except for a name that has existed for 40 years may not be modified under those provisions. The Hennepin County Attorney’s Office informed the board of commissioners that it “had no role in renaming a body of water whose name was in existence for more than 40 years.”

² In this opinion, we use DNR to refer both to the Minnesota Department of Natural Resources and its commissioner. We use DNR commissioner when discussing the particular exercise of duties by the DNR commissioner pursuant to sections 83A.02-.03.

Before the board of commissioners, appellant Save Lake Calhoun³ presented a petition on behalf of 318 of the 334 homeowners around the lake, opposing the name. On November 21, 2017, the board of commissioners passed, by a vote of 4 to 3, a resolution recommending that the DNR change the lake's name. Resolution No. 17-0489 provided:

BE IT RESOLVED, that after following the process outlined in Minn. Stat. §§ 83A.05[-].07, including a public hearing, the Hennepin County Board of Commissioners recommends that the [DNR] take the steps necessary to change the name of Lake Calhoun, Minnesota Public Water No. 27-31, located in Sections 4 and 5 of Township 28 North, Range 24 West; and in Sections 32 and 33 of Township 29 North, Range 24 West, in the City of Minneapolis, to be Bde Maka Ska.

On December 15, 2017, the resolution was served on the DNR. On January 18, 2018, the DNR approved the name change in a "Names of Geographic Features Order." The DNR's order identified historical authority for it to modify the lake's name and its "long[-]standing policy . . . encouraging counties requesting that the [DNR c]ommissioner approve a name change pursuant to Minn. Stat. § 83A.02 and Minn. Stat. § 83A.04 to comply with the notice and hearing requirements set forth in Minn. Stat. § 83A.06." The order continued: (1) the board of commissioners complied with chapter 83A notice and hearing requirements; (2) the U.S. Board of Geographic Names protocol supported the name change; (3) Lake Calhoun was a duplicative lake name;⁴ (4) the elected members of

³ Appellant asserts it is "an association of residents in Minneapolis, Hennepin County, Minnesota" and all of its members "reside immediately adjacent to or near Lake Calhoun or have businesses in the same location."

⁴ Lake Calhoun is also a lake name in Kandiyohi County, located approximately 100 miles west of Hennepin County.

the board of commissioners recommended the name change after a public hearing and receiving testimony, which the DNR commissioner found constituted compelling evidence for the name change in the public interest; (5) the DNR weighed the information in Resolution No. 17-0489 with the written comments received and found the name change served the public interest; and (6) the 40-year restriction under Minn. Stat. § 83A.04, subd. 1, did not apply to the DNR’s authority under Minn. Stat. § 83A.02. Therefore, the DNR commissioner approved the renaming of the lake from Lake Calhoun to Bde Maka Ska.

On February 13, 2018, appellant petitioned this court for a writ of *certiorari*. This court dismissed the writ on March 6, 2018, concluding that the order is not a quasi-judicial decision reviewable by *certiorari*. *In re Proposed Renaming of Lake Calhoun*, No. A18-0261 (Minn. App. Mar. 6, 2018) (order).

On April 25, 2018, appellant petitioned for a writ of *quo warranto*⁵ in Ramsey County District Court. The DNR moved to dismiss or, in the alternative, to change venue. The district court found that appellant had standing to bring the petition but granted the

⁵ *Quo warranto* is the proper means for inquiring into whether a particular individual has improperly exercised a power or right derived from the [s]tate, such as whether an official is properly qualified and eligible to hold public office and exercise its functions. In addition, a *quo warranto* action may challenge a governmental body’s authority to act.

74 C.J.S., *Quo Warranto* § 1 (2019); see also *Black’s Law Dictionary* 1447 (10th ed. 2014) (defining “*quo warranto*” as “[a] common-law writ used to inquire into the authority by which a public office is held or a franchise is claimed”).

DNR's motion to dismiss under Minn. R. Civ. P. 12.02(e),⁶ concluding that appellant failed to establish an ongoing act necessary to obtain *quo warranto* relief.

ISSUES

- I. Does appellant have standing to petition for a writ of *quo warranto*?
- II. Did the district court err by dismissing appellant's petition for writ of *quo warranto* for failure to state a claim for which relief may be granted under Minn. R. Civ. P. 12.02(e)?
- III. Does the DNR commissioner have authority pursuant to Minn. Stat. §§ 83A.01-.07 to change a lake name which has existed for 40 years?

ANALYSIS

A dismissal under Minn. R. Civ. P. 12.02(e) is reviewed *de novo* and this court accepts "the facts alleged in the complaint as true and construe[s] all reasonable inferences in favor of the nonmoving party." *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 606 (Minn. 2014). Similarly, matters of standing and mootness are addressed under a *de novo* standard of review.⁷ *In re Gillette Children's Specialty Healthcare*, 883 N.W.2d 778, 784 (Minn.

⁶ Minn. R. Civ. P. 12.02(e) provides:

Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion:

. . . .

(e) failure to state a claim upon which relief can be granted.

⁷ The DNR contends that this matter is moot because the U.S. Board of Geographic Names changed the name of the lake to Bde Maka Ska in the Geographic Names Information System. *Meeting of Domestic Names Comm.*, 804th U.S. Board on Geographic Names (June 21, 2018), <https://geonames.usgs.gov/apex/gazvector.download>

2016) (standing); *Verhein v. Piper*, 917 N.W.2d 96, 100 (Minn. App. 2018) (mootness). Matters of statutory interpretation are also analyzed under *de novo* review. *Staab v. Diocese of St. Cloud*, 853 N.W.2d 713, 716 (Minn. 2014).

I. Appellant has standing to petition for a writ of *quo warranto*.

“Standing is a legal requirement that a party have a sufficient stake in a justiciable controversy to seek relief from a court.” *McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 338 (Minn. 2011) (quotation omitted). This court may determine standing as a legal issue when the facts are not disputed. *Joel v. Wellman*, 551 N.W.2d 729, 730 (Minn. App. 1996), *review denied* (Minn. Oct. 29, 1996). “The question of standing, which can be raised by [appellate] court[s] on [their] own motion, is essential to our exercise of jurisdiction.” *Annandale Advocate v. City of Annandale*, 435 N.W.2d 24, 27 (Minn. 1989); *see also Scheffler v. City of Anoka*, 890 N.W.2d 437, 451 (Minn. App. 2017) (“Standing is a jurisdictional issue.”), *review denied* (Minn. Apr. 26, 2017).

“A standing analysis focuses on whether the plaintiff is the proper party to bring a particular lawsuit.” *Olson v. State*, 742 N.W.2d 681, 684 (Minn. App. 2007). A party

[_geonames_file?p_file=18519228266435783](#). “Courts are designed to decide actual controversies.” *Application of Minnegasco*, 565 N.W.2d 706, 710 (Minn. 1997). “[A]n appeal will be dismissed as moot when intervening events render a decision on the merits unnecessary or an award of effective relief impossible. But an appeal is not moot when a party could be afforded effective relief.” *Wayzata Nissan, LLC v. Nissan N. Am., Inc.*, 875 N.W.2d 279, 283 (Minn. 2016) (citation omitted). The U.S. Board on Geographic Names only exercises authority to “provide for uniformity in geographic nomenclature and orthography throughout the Federal Government.” 43 U.S.C. § 364 (2012) (emphasis added). Pursuant to Minn. Stat. § 83A.03 the name approved by the DNR commissioner will appear on the “maps, records, documents, and other publications” that the State of Minnesota and its departments issue. Effective relief may be granted here precluding a dismissal as moot.

establishes standing by suffering an injury-in-fact or relying on standing conferred by the legislature under a statutory scheme. *Id.*

The DNR raised standing before the district court and received an adverse ruling based on *McKee v. Likins*, 261 N.W.2d 566 (Minn. 1977), though it succeeded on its motion for dismissal of the petition for writ of *quo warranto* based on Minn. R. Civ. P. 12.02(e). In this appeal, appellant challenges the district court's rule 12.02(e) dismissal, and the DNR failed to file a notice of related appeal. Minn. R. Civ. App. P. 106 ("After an appeal has been filed, respondent may obtain review of a judgment or order entered in the same underlying action that may adversely affect respondent by filing a notice of related appeal in accordance with [r]ule 102.02, subdivision 2, and [r]ule 104.01, subdivision 4."). An issue decided against a respondent is not properly before this court, generally, when a notice of related appeal is not filed. *City of Ramsey v. Holmberg*, 548 N.W.2d 302, 305 (Minn. App. 1996) ("Even if the judgment below is ultimately in its favor, a party must file a notice of [related appeal] to challenge the district court's ruling on a particular issue."), *review denied* (Minn. Aug. 6, 1996). "If a party fails to file a notice of [related appeal] pursuant to Minn. R. Civ. App. P. 106, the issue is not preserved for appeal and a reviewing court cannot address it." *Id.* Because the DNR obtained an adverse ruling from the district court on standing and failed to preserve the issue,⁸ we do not believe the issue of standing is properly presented.

⁸ The DNR relies on the filing of a statement of the case to preserve the standing issue. An issue not raised in a statement of the case does not limit review on appeal. *May v. May ex rel. May*, 713 N.W.2d 910, 913 (Minn. App. 2006). However, after an *adverse ruling*, a

Moreover, even if standing had been properly presented, a party may establish standing under the taxpayer-standing doctrine. Taxpayer standing allows a party to bring a cause of action without a damage or injury, if the action challenges “unlawful disbursements of public money . . . [or] illegal action on the part of public officials.” *Olson*, 742 N.W.2d at 684 (quoting *McKee*, 261 N.W.2d at 571) (alterations in original).

In Minnesota, taxpayers have a limited right to bring claims in response to government actions, but the right is broader than taxpayer standing in federal courts. *Id.* “Taxpayers are legitimately concerned with the performance by public officers of their public duties.” *McKee*, 261 N.W.2d at 571. A taxpayer’s ability to challenge government activity, however, does not permit standing merely because “a citizen does not agree with the policy or discretion of those charged with the responsibility of executing the law.” *Id.*

McKee is the seminal Minnesota case related to taxpayer standing. The supreme court recognized caselaw allowing taxpayers to “compel county officers to perform certain acts required by law” and “to restrain illegal action on the part of public officials.” *Id.* (quoting *Oehler v. City of St. Paul*, 219 N.W. 760, 763 (Minn. 1928)). Further, the supreme court noted “it ha[d] been generally recognized that a taxpayer has sufficient interest to enjoin illegal expenditures of both municipal and state funds.” *Id.* (quoting *Arens v. Village of Rogers*, 61 N.W.2d 508, 513 (Minn. 1953)). Within this context, the supreme court recognized that “the right of a taxpayer to maintain an action in the courts to restrain the unlawful use of public funds cannot be denied.” *Id.*

respondent preserves the right to obtain review on that issue by the filing of a notice of related appeal. Minn. R. Civ. App. P. 106.

The procedural posture of this case, an appeal from a rule 12.02(e) dismissal, requires the acceptance of the material allegations in the pleadings and construing it in favor of the complaining party. *Forslund v. State*, 924 N.W.2d 25, 35 (Minn. App. 2019). Appellant provides allegations of financial resources being expended related to the DNR’s exercise of authority to promote the name change and asserts DNR acted illegally by changing the lake name. Based on the requirement to accept these allegations, appellant has taxpayer standing to proceed in this case pursuant to *McKee*.

II. The district court erred by dismissing appellant’s petition for writ of *quo warranto* pursuant to Minn. R. Civ. P. 12.02(e).

Quo warranto relief existed as part of the “ancient common-law” that this country acquired as the law existed “after St. 9 Anne, c. 20.”⁹ *Village of Kent*, 104 N.W. 950, 952. “The writ of *quo warranto* is a special proceeding designed to correct the unauthorized assumption or exercise of power by a public official or corporate officer.” *State ex rel. Sviggum v. Hanson*, 732 N.W.2d 312, 318 (Minn. App. 2007). An official is compelled in a *quo warranto* action to “show before a court of competent jurisdiction by what authority the official exercised the challenged right or privilege of office.” *Id.* (citing *State ex rel. Burnquist v. Village of North Pole*, 6 N.W.2d 458, 461 (Minn. 1942)). This is “an extraordinary legal remedy[;] it is not granted where another adequate remedy is available.” *Burnquist*, 6 N.W.2d at 460.

⁹ “[T]he statute of Anne was enacted for rendering the proceedings upon writs of *mandamus* and informations in the nature of *quo warranto* more speedy and effectual and for the more easy trying the determining the rights of officers in franchises and boroughs.” *State v. Village of Kent*, 104 N.W. 948, 950 (Minn. 1905) (quotation omitted).

Minnesota courts have expanded the scope of *quo warranto* relief beyond its original limitations. *Quo warranto* relief now “lie[s] against unauthorized conduct that threatens a substantial public injury but is not necessarily grounds for dissolution of a corporate franchise or ouster from office.” *Sviggum*, 732 N.W.2d at 319 (citing *Rice v. Connolly*, 488 N.W.2d 241, 242-43 (Minn. 1992); *State ex rel. Mattson v. Kiedrowski*, 391 N.W.2d 777, 783 (Minn. 1986)). A party cannot obtain *quo warranto* relief to test the legality of pending conduct or completed official conduct. *Id.* at 319-20; *see also State ex rel. Lommen v. Gravlin*, 295 N.W. 654, 655 (Minn. 1941) (“[T]he writ of *quo warranto* is not allowable as preventive of, or remedy for, official misconduct and [cannot] be employed to test the legality of the official action of public or corporate officers.”) (quotation omitted).¹⁰ “[I]t is well-established that the *quo warranto* remedy may be applied only to an ongoing exercise of power” *Sviggum*, 732 N.W.2d. at 320.

The district court dismissed appellant’s cause of action pursuant to rule 12.02(e), determining that the DNR’s exercise of power to change the lake name is completed conduct. Though the district court acknowledged some activity occurred after the name change, it found the activity was too *de minimis* to permit *quo warranto* relief. Contrary to the district court’s determination, we conclude the DNR’s conduct constitutes an ongoing exercise of power.

¹⁰ *Lommen* reflects the historical limitation on *quo warranto* relief in that the supreme court, ultimately, found relief could not be granted because “[n]o franchise or right to office being involved, the case [was] not one for a writ of *quo warranto*.” 295 N.W.2d at 655.

As this court identified in *Sviggum*, the issue in *quo warranto* relief cases challenging unauthorized conduct is whether evidence establishes “an ongoing exercise of power.” *Id.* Although the DNR commissioner changed the lake name, its purported authority to change lake names is an ongoing exercise of power that appellant asserts is illegal.

The caselaw related to *quo warranto* relief supports the concept that a final decision does not necessarily answer the legal question of whether the conduct, which lead to that final decision, is an ongoing exercise of power. In *Mattson* and *Rice*, the Minnesota Supreme Court found final legislative and rulemaking acts contrary to the constitution, which, despite a final decision, permitted *quo warranto* relief.

In *Rice*, the Minnesota Supreme Court held remote and telephonic betting on racetracks permitted by the Minnesota Racing Commission exceeded the 1982 constitutional amendment permitting on-track parimutuel betting and issued a writ of *quo warranto*. 488 N.W.2d at 247-48. The Minnesota Racing Commission and the legislature “coordinate[d] authority” that permitted the commission to allow tele-racing for betting. *Id.* at 245-46. The supreme court analyzed whether the Minnesota Constitution permitted this type of betting. *Id.* at 246. Because the constitutional provision prohibited “off-track betting,” the supreme court determined “[w]agering at facilities remote from the racetrack or by telephonic means [were] beyond the scope of the activities authorized by the voters and are therefore impermissible.” *Id.* at 248.

In *Mattson*, the Minnesota Supreme Court held the legislature’s transfer of functions from the state treasurer’s office violated two provisions of the Minnesota

Constitution and issued a writ of *quo warranto*. 391 N.W.2d at 783. The legislature enacted a statute “which transferred most of the responsibilities of the [s]tate [t]reasurer, an executive officer, to the [c]ommissioner of [f]inance, a statutory position.” *Id.* at 778. The supreme court analyzed the constitutionality of the legislative enactment. *Id.* at 780. Even though the constitution allowed the legislature to modify duties of an executive officer, “it d[id] not authorize legislation, such as [c]hapter 13, that strip[ed] such an office of all its independent core functions.” *Id.* at 782. Because the legislative act violated the Minnesota Constitution, the supreme court directed return of the state treasurer’s functions. *Id.* at 783.

Similar to *Rice* and *Mattson*, the DNR commissioner’s decision to change the lake name pursuant to section 83A.02(1) does not resolve the question of its authority to do so. The DNR’s ability to act in this manner is authorized, and limited, by the interpretation of the relevant statutory scheme. *In re Hubbard*, 778 N.W.2d 313, 318 (Minn. 2010) (“Administrative agencies are creatures of statute and they have only those powers given to them by the legislature.”).

There are statutorily mandated obligations imposed on state departments or political subdivisions due to the DNR commissioner’s decision to change the lake’s name. The DNR commissioner exercised purported authority pursuant to section 83A.02(1) to determine the name of the lake finding the “correct and most appropriate name” to be Bde Maka Ska. The DNR commissioner issued a “Names of Geographic Features Order” published in the Minnesota State Register as required pursuant to section 83A.02(1). Although the lake name has now been changed, the DNR commissioner’s authority to

exercise this power persists. *See* Minn. Stat. §83A.03 (requiring that state departments comply with an official name recognized by the DNR commissioner of “any lake, stream, place, or other geographic features within the state”).

The DNR’s exercise of authority pursuant to section 83A.02(1) implicates the central issue identified in *Rice* and *Mattson* regarding whether the exercise of power is authorized. The DNR acknowledges that its authority, by its interpretation of the statute, would permit it to change lake names across the state without need to cooperate with county boards and regardless of the age of the lake name, if it chose to do so. We conclude the DNR is engaging in an ongoing exercise of power regarding its authority to change lake names in a manner that *quo warranto* permits to be reviewed. Therefore, it was error for the district court to dismiss the petition for writ of *quo warranto*.

III. The DNR commissioner lacks authority pursuant to Minn. Stat. §§ 83A.01-.07 to change a lake name which has existed for 40 years.

Having determined that it was error to dismiss the petition for writ of *quo warranto* petition, this court next will analyze the statutory interpretation of chapter 83A because the issue is a purely legal matter rather than a factual issue. *Sviggum*, 732 N.W.2d at 320 (“[T]he court has exercised varying amounts of discretion in determining how to proceed on *quo warranto* petitions.”) (citing *Rice*, 488 N.W.2d at 244). The parties, also, thoroughly briefed and orally argued the issue of the statutory interpretation.

“Our primary goal in statutory interpretation is to give effect to the intent of the [l]egislature.” *Swanson v. Brewster*, 784 N.W.2d 264, 284 (Minn. 2010). Within this goal, Minnesota courts must construe the statute to give effect to all its provisions when possible.

Minn. Stat. § 645.16 (2018). Further, “no word, phrase, or sentence should be deemed superfluous, void, or insignificant.” *Amaral v. St. Cloud Hosp.*, 598 N.W.2d 379, 384 (Minn. 1999).

“When interpreting a statute, we first look to see whether the statute’s language, on its face, is clear or ambiguous.” *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). A statute is ambiguous when it is susceptible to more than one reasonable interpretation. *Verhein*, 917 N.W.2d at 102. If the intent of the language is clear from the plain and unambiguous language, then this court gives the effect to the language without considering other principles of statutory interpretation. *Id.* When addressing statutory ambiguity, we may consider the canons of interpretation contained in Minn. Stat. § 645.08 (2018). *Laase v. 2007 Chevrolet Tahoe*, 776 N.W.2d 431, 435 (Minn. 2009) (recognizing that the canons of interpretation at Minn. Stat. § 645.08 are used to determine “the plain meaning of a statute without first concluding that the statute was ambiguous”).

Within this framework, we examine chapter 83A to determine whether the DNR exercised authority in accordance with the statutory scheme. *Christianson v. Henke*, 831 N.W.2d 532, 537 (Minn. 2013) (“Multiple parts of a statute may be read together so as to ascertain whether the statute is ambiguous.”). Appellant argues the DNR lacks authority to change a lake name which has existed for 40 years. Appellant contends the DNR’s interpretation of chapter 83A “exceeds [the DNR commissioner’s] authority relating to the renaming of lakes whose names have been in existence for more than 40 years.”

This court recognizes the particular importance of assessing the authority provided to the DNR because administrative agencies only possess the powers provided to them by

the legislature. *Hubbard*, 778 N.W.2d at 318. “An agency’s statutory authority may be either expressly stated in the legislation or implied from the expressed powers.” *Id.* However, the Minnesota Supreme Court recognizes a reluctance to find implied authority. *Id.* at 321. “[A]ny enlargement of powers by implication must be ‘*fairly drawn and fairly evident*’ from the agency’s objectives and powers expressly given by the legislature.” *Id.* (emphasis added) (quoting *Peoples Nat. Gas Co. v. Minn. Pub. Utils. Comm’n*, 369 N.W.2d 530, 534 (Minn. 1985)).

Pursuant to Minn. Stat. § 83A.02, the legislature provided powers and duties to the DNR commissioner related to state geographic features. The DNR commissioner’s powers and duties in this context are:

(1) *determine* the correct and most appropriate names of the lakes, streams, places and other geographic features in the state, and the spelling thereof by written order published in the State Register. Name designations are exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply;

(2) *pass upon* and give names to lakes, streams, places, and other geographic features in the state for which no single, generally accepted name has been in use;

(3) in cooperation with the county boards and with their approval, *change* the names of lakes, streams, places, and other geographic features, with the end in view of eliminating, as far as possible, duplication of names within the state;

(4) *prepare* and publish an official state dictionary of geographic names and publish the same, either as a completed whole or in parts, when ready;

(5) *serve* as the state representative of the United States Geographic Board and cooperate with that board to the end that there shall be no conflict between the state and federal designations of geographic features in the state.

Minn. Stat. § 83A.02(1)-(5) (emphasis added). Once the DNR commissioner has given a name for a geographic feature, that “name shall be used in all maps, records, documents, and other publications issued by the state or any of its departments and political subdivisions, and such names shall be deemed the official name of such geographic feature.” Minn. Stat. § 83A.03.

The legislature also provided for giving and changing the name of water bodies pursuant to sections 83A.05-.07, but “a name which has existed for 40 years may not be changed under the provisions of sections 83A.05 to 83A.07.” Minn. Stat. § 83A.05, subd. 1. The name provided by the county board is the legal name of the water body. Minn. Stat. § 83A.06, subd. 6. *But see* Minn. Stat. § 83A.04 (recognizing a county board cannot change the name of “any lake, river, or other body of water without the written approval of the commissioner of natural resources endorsed on any resolution determining or fixing such name, which endorsement must be made on the same prior to recording with the county recorder”).

The DNR contends that the 40-year limitation of Minn. Stat. § 83A.05, subd. 1, does not limit its authority but, instead, only limits the authority of county boards to exercise their authority to give or change the name of water bodies and that section 83A.02(1), functions separately from the county-board restrictions. This court is not persuaded.

The language providing powers and duties to the DNR commissioner pursuant to section 83A.02 cannot be read to permit the DNR’s broad interpretation. The DNR argues that its authority to act in this case is exclusively pursuant to section 83A.02(1). This statutory provision, however, can only mean what the DNR claims if read in isolation from

the other provisions of the statute which—as our canons of statutory interpretation so dictate—we cannot do. See *Schwanke v. Minn. Dep’t of Admin.*, 851 N.W.2d 591, 597 (Minn. 2014) (“We have long recognized that ‘[w]ords and sentences are to be understood . . . in light of their context’ and are ‘not to be viewed in isolation.’”) (quoting *Christensen v. Hennepin Transp. Co.*, 10 N.W.2d 406, 415 (Minn. 1943)). Instead, the explicit power to change a lake’s name is identified in section 83A.02(3). Section 83A.02(3) identifies the DNR commissioner’s authority “*in cooperation with the county boards and with their approval, change the names of lakes, streams, places, and other geographic features.*” (Emphasis added.)

“When the [l]egislature uses different words, we normally presume that those words have different meanings.” *Nelson v. Schlener*, 859 N.W.2d 288, 294 (Minn. 2015). This presumption applies because the legislature used different words—within the same section—to grant authority in the DNR commissioner. When determining the plain meaning of a word in a statute that does not provide a specific definition, “we often consider dictionary definitions.” *Shire v. Rosemount, Inc.*, 875 N.W.2d 289, 292 (Minn. 2016). The term “determine” means the DNR commissioner may “decide or settle” the name of a geographic feature, in contrast to the ability to “change” which means to take steps to make the name of a geographic feature different. Compare *American Heritage Dictionary of the English Language* 509 (3d ed. 1992) (defining “determine” as “[t]o decide or settle (a dispute, for example) conclusively and authoritatively”), *with id.* at 319 (defining “change” as “[t]o cause to be different”).

When a lake has “no single, generally accepted name[,]” then the DNR commissioner has the authority to “pass upon and give” a name to it. Minn. Stat. § 83A.02(2). The situation before this court involves a lake already named; the DNR commissioner’s sole legislative authority to change a lake’s name occurs when it cooperates and receives approval from the county board. *Id.* (3).

County boards engage in the process to change names of water bodies within the limitations of sections 83A.05-.07, which prohibit the change of a name that has existed for 40 years. Minn. Stat. § 83A.05, subd. 1. Construing section 83A.02(3) within the context of sections 83A.05-.07 clarifies the ability of county boards to cooperate with the DNR commissioner to change the names of water bodies. The lake was known as Lake Calhoun for 40 years when the DNR commissioner changed the name.

The DNR argues the plain meaning of the statute demonstrates the prohibition on county boards changing the names of water bodies does not apply to its ability to act pursuant to section 83A.02. The rules of statutory construction as we have outlined above do not support the DNR’s argument. The DNR’s statutory construction would render superfluous the language of sections 83A.05-.07 to permit county boards to change the names of water bodies. That is, if the language “except that a name which existed for 40 years may not be changed under the provisions of sections 83A.05 to 83A.07”—and all the procedures outlined by the legislature for so changing a lake name—can be ignored by the DNR commissioner, such a result would render this portion of the statute superfluous. Minn. Stat. § 83A.05, subd. 1. As noted above, we are not to so interpret language of a statute to be “superfluous, void, or insignificant.” *Amaral*, 598 N.W.2d at 384.

Our interpretation of the DNR commissioner’s authority to change lake names requires cooperation with county boards as provided under sections 83A.05-.07. Accordingly, we conclude that the DNR lacks authority to change a lake’s name which has been in existence for 40 years.

Because the plain meaning of the statute resolves the question of the DNR’s authority pursuant to section 83A.02, we need not consider legislative history. *Laase*, 776 N.W.2d at 435 n.2 (“In the absence of a finding of ambiguity, we do not resort to legislative history to interpret a statute.”). However, we recognize that the legislative history related to chapter 83A is consistent with our plain meaning interpretation. *See Carlton v. State*, 816 N.W.2d 590, 604 (Minn. 2012); *In re of Qwest Corp.*, 918 N.W.2d 578, 587 (Minn. App. 2018); *Appeal of S.H. R.G. for Northstar Adoption Assistance*, 907 N.W.2d 680, 686 (Minn. App. 2018).

In 1925, the legislature created “[a]n act providing for a method for changing the name of, or giving a name to, any lake, river, stream or other body of water, wholly within the boundaries of this state.” 1925 Minn. Laws ch. 157, §§ 1-6, at 146-48 (codified at Mason’s Minn. Stat. §§ 751-2 to -7 (1927)). This statutory scheme, functionally, contains the same procedure in sections 83A.05-.07. *Compare id.* (recognizing the historical statutory scheme), *with* Minn. Stat. §§ 83A.05-.07 (recognizing the modern statutory scheme). This historical language also recites that “no name of any lake, river, stream or other body of water, which name ha[d] existed for forty (40) years shall be changed under the provisions of this act.” 1925 Minn. Laws ch. 157, § 1, at 146. The legislature provided no scheme for changing a lake’s name which has existed for 40 years.

In 1937, the legislature amended the section after creating the state geographic board.¹¹ 1937 Minn. Laws ch. 63, §§ 1-6, at 108-09 (codified at Mason’s Minn. Stat. §§ 128-2 to -6 (Supp. 1938)); 1937 Minn. Laws ch. 35, §§ 1-5, at 68-70 (amending Mason’s Minn. Stat. §§ 751-2 to -4, and 751-7 (1927)). The state geographic board possessed the same duties as the DNR commissioner—including “[t]o determine the correct and most appropriate names of the lakes, streams, places, and other geographic features in the state, and the spelling thereof.” *Compare* 1937 Minn. Laws ch. 63, § 2, at 108 (recognizing the historical statutory scheme), *with* Minn. Stat. § 83A.02 (reflecting the modern statutory scheme). However, the state geographic board, in 1937, was included as a party that may petition the county boards in the same manner as the 15 legal voters in the county where the water body existed.¹² 1937 Minn. Laws ch. 35, § 4, at 69-70.

This statutory scheme remained relatively unchanged until its recodification in 1990 to Minn. Stat. §§ 83A.05-.07.¹³ *See* Minn. Stat. §§ 83A.01-.04, 378.01-.07 (1988); 1990

¹¹ The state geographic board consisted of the commissioner of conservation, the commissioner of state highways, and the superintendent of the Minnesota Historical Society. 1937 Minn. Laws ch. 63, § 1, at 108. In 1965, the superintendent of the Minnesota Historical Society was modified to be the “director of the Minnesota Historical Society.” 1965 Minn. Laws ch. 51, § 67, at 87 (amending Minn. Stat. § 354.01 (1961)).

¹² The DNR commissioner relies, in part, on an attorney general opinion in issuing the “Names of Geographic Features Order.” *Op. Att’y Gen. 247a* (Apr. 26, 1940). This court is not persuaded by the reasoning provided in the opinion. *See State Farm Mut. Auto. Ins. Co.*, 854 N.W.2d 249, 262 (Minn. App. 2014) (recognizing attorney general opinions may be considered by this court but are not binding), *review denied* (Minn. Dec. 16, 2014). The 1940 opinion does not comport with the limit on agencies to exercise authority expressly or implicitly drawn from the statute. *Hubbard*, 778 N.W.2d at 318.

¹³ In 1969, the Minnesota Legislature abolished the geographic board and vested its powers in the DNR commissioner. 1969 Minn. Laws ch. 1129, art. 3, § 3, at 2339 (codified at

Minn. Laws ch. 391, art. 8, §§ 7-9, at 693-95. The recodification of sections 378.01-.06 into chapter 83A tied the two schemes in a logical manner. *See* Minn. Stat. §§ 83A.01-.07 (1990). The historical nature of chapter 83A from 1925 supports a reading of the statutory scheme which, unambiguously, denies authority for the DNR to change the name of a lake which has existed for 40 years.

The DNR's assertion that its authority permits changing a lake name is not expressed, or fairly drawn or fairly evident from the powers delegated to it within the statute's context. The fair limit on the DNR's authority is determined by linking its ability to change the name of water bodies when cooperating with county boards pursuant to sections 83A.05-.07 pursuant to the plain meaning of the statute and the statute's legislative history. Accordingly, the DNR's action to change the lake's name exceeded its authority provided pursuant to chapter 83A.

D E C I S I O N

Appellant presents a sufficient claim for ongoing exercise of power by the DNR and so the district court erred in denying the writ of *quo warranto* pursuant to Minn. R. Civ. P. 12.02(e). We have addressed the merits of the DNR commissioner's purported authority to change lake names existing for 40 years and found no authority permits this action. Accordingly, we reverse and remand for entry of judgment in favor of Save Lake Calhoun.

Reversed and remanded.

Minn. Stat. §§ 83A.015, 84.025 (1969)); *see* 1971 Minn. Laws ch. 25, §§ 21-25, at 55 (amending Minn. Stat. §§ 83A.03-.04, 378.01, .03, .06 (1969)).