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Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1359

In the Matter of the Contested Case Hearing Request
by W. Lorentz & Sons Construction.

Filed July 11, 2022
Affirmed
Bratvold, Judge

Minnesota Pollution Control Agency

Matthew C. Berger, Gislason & Hunter LLP, New Ulm, Minnesota (for relator W. Lorentz & Sons Construction, Inc.)

Keith Ellison, Attorney General, Peter J. Farrell, Assistant Attorney General, St. Paul, Minnesota (for respondent Minnesota Pollution Control Agency)

Considered and decided by Bjorkman, Presiding Judge; Bratvold, Judge; and Klaphake, Judge.[*]

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

In this certiorari appeal, relator challenges respondent's revocation of relator's coverage under the state's general industrial stormwater permit and respondent's subsequent denial of a contested-case hearing. Relator asserts that (1) respondent revoked the permit without 30 days' notice and based its decision on unlawful procedure and errors of law; (2) respondent violated relator's due-process rights; and (3) respondent's decisions

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

were arbitrary and capricious. We determine that (1) respondent granted permit coverage to relator under a mistake of fact or law and therefore properly revoked relator's permit coverage without notice, and, alternatively, any procedural error was harmless; (2) relator's coverage under the permit was not a protected property interest; and (3) respondent's decisions were neither arbitrary nor capricious because the record establishes a rational connection between the facts found and respondent's decisions to revoke the permit coverage and to deny the contested-case hearing. Thus, we affirm.

FACTS

These facts are taken from respondent Minnesota Pollution Control Agency's (MPCA) September 2021 order denying the request of relator W. Lorentz & Sons Construction Inc. (Lorentz) for a contested-case hearing and are supplemented by the record when helpful to the issues on appeal.

Lorentz is an excavation and underground-utilities construction company. In August 2020, Cottonwood County granted Lorentz a conditional-use permit (CUP) for a quarry project in Amboy Township. The quarry project would involve extraction of Sioux Quartzite, mining, blasting, crushing, washing, stockpiling, and dewatering.

In November 2020, a citizen group petitioned the Environmental Quality Board (EQB) requesting preparation of an environmental-assessment worksheet (EAW) on the quarry project (EAW petition). The EAW petition alleged three potential environmental impacts: (1) project activities, including dewatering, drainage ponds, berms, culverts, and forced drainage, would be in "close proximity [to] protected wetlands"; (2) planned excavation of 30 acres would affect the habitat of "endangered and threatened rare plant

species" that are in "the Minnesota Prairie Conservation Plan"; and (3) the quarry's location was within one mile of two archaeological sites with rare examples of Native American petroforms and within two miles of "two documented Native American Burial sites" that are protected by Minnesota statute.

On November 12, 2020, EQB assigned Cottonwood County as the responsible governmental unit (RGU) to review the EAW petition and decide whether preparation of an EAW was required.

On November 30, 2020, Lorentz used MPCA's online "e-Services portal" to apply for permit coverage to discharge stormwater from the quarry project under the National Pollution Discharge Elimination System (NPDES)/State Disposal System (SDS) General Permit for Industrial Stormwater (general permit). The e-Services portal allows facilities to submit online applications for general-permit coverage, and MPCA may automatically grant or deny coverage via the portal, depending on the facility's application responses. For example, the application asks whether the facility's project requires environmental review. If a facility answers yes, then MPCA does not grant permit coverage until the environmental review is complete. "Lorentz answered 'no' when asked whether environmental review was required" for the quarry project.

On December 1, 2020, MPCA's portal automatically granted Lorentz general-permit coverage for the quarry project.

On December 7, 2020, Cottonwood County notified EQB that the county board voted to deny the EAW petition, but the vote would not be final until December 15. Cottonwood County explained it had determined that the quarry project "was exempt [from

an EAW] because there was final governmental approval of the project" when the county granted Lorentz's CUP in August 2020.

On December 9, 2020, MPCA received a complaint of groundbreaking activity at the quarry-project site that was "endangering plant life, waterways, and native burials." MPCA investigated this complaint, and an investigator spoke with a Lorentz representative at the quarry-project site. Lorentz admitted its general-permit application had two inaccuracies: (1) the quarry project's industrial activity would cover 35.6 acres, not 160 acres; and (2) the quarry project would not include dewatering.

On December 11, 2020, EQB informed Cottonwood County that it was erroneously assigned as the RGU for the EAW petition. On the same day, MPCA notified Lorentz that its general-permit coverage was revoked because of the pending EAW petition. MPCA also informed Lorentz that its application was inaccurate.

Lorentz responded to MPCA's permit-revocation notice by asking for "three 'amendments' to its existing permit": (1) the EAW petition was denied on December 1, 2020; (2) the quarry project covers 36 acres; and (3) the quarry-project activities do not include dewatering or washing.

On December 16, 2020, EQB reassigned the EAW petition to MPCA and published notice saying so. MPCA requested an extra 15 days to evaluate the EAW petition.

On January 14, 2021, Lorentz appealed MPCA's "decision on permit revocation dated 12-11-2020 and request[ed] a contested case hearing on it."

In February 2021, MPCA notified EQB, Cottonwood County, and Lorentz that it could not evaluate the EAW petition because (1) MPCA revoked Lorentz's general-permit

coverage, and (2) Lorentz did not reapply for general-permit coverage, so "there was no active project for purposes of environmental review." MPCA advised that if Lorentz reapplied for coverage, MPCA "would determine whether an EAW needed to be prepared."

In a September 2021 order, MPCA denied Lorentz's request for a contested-case hearing because (1) Lorentz's petition for a contested-case hearing lacked the information required under Minn. R. 7000.1800, and (2) MPCA interpreted Minn. R. 7001.0010-.0210 "to not require a contested-case hearing when [MPCA] revokes coverage under an auto-issued general permit based on the permittee's inaccurate representations about the status of environmental review." Similarly, MPCA concluded that when it "became aware" that Lorentz's general-permit coverage was granted under a mistake of fact, it "was entitled to revoke the permit immediately."

Lorentz seeks review by writ of certiorari.[1]

DECISION

We review MPCA's decisions involving environmental review under the Minnesota Administrative Procedure Act (MAPA). Minn. Stat. §§ 115.05, subd. 11(4) (granting judicial review under MAPA of an agency's final decision denying a contested-case hearing), 14.69 (scope of judicial review under MAPA) (2020); *see Minn. Ctr. for Env't.*

[1] On April 4, 2022, MPCA moved to postpone oral arguments before this court until May 9, 2022, or later "because this appeal could become moot shortly after oral argument." MPCA's motion asserted that, after MPCA's revocation decision, Lorentz requested coverage under a different general permit, and an EAW petition was pending before MPCA as the RGU. MPCA explained that if MPCA denies the EAW petition and grants Lorentz coverage, then this appeal may become moot. Lorentz opposed the motion. This court denied MPCA's request because "MPCA [did] not assert that the appeal is currently moot. Whether future developments will actually render the appeal moot is currently unknown."

Advoc. v. Minn. Pollution Control Agency, 644 N.W.2d 457, 464 (Minn. 2002) (holding that MAPA applies to "an area such as environmental review, uniquely involving application of an agency's expertise, technical training, and experience"). Under MAPA, "we may affirm, remand, or reverse an agency decision if the agency's findings of fact are unsupported by substantial evidence, arbitrary or capricious, or affected by an error of law" or unlawful procedure. *In re NorthMet Project Permit to Mine Application*, 959 N.W.2d 731, 749 (Minn. 2021). When an agency's decision relies on the application of its technical knowledge and expertise to the facts presented, deference should be afforded to the agency. *In re Rev. of 2005 Ann. Automatic Adjustment of Charges for All Elec. & Gas Utils.*, 768 N.W.2d 112, 119 (Minn. 2009) (*In re 2005 Adjustment*).

Lorentz's challenges to MPCA's decisions in this appeal require us to understand relevant statutes and regulations. The federal Clean Water Act (CWA) aims to "restore and maintain the . . . integrity of the Nation's waters" and prohibits the discharge of any pollutant without a permit. 33 U.S.C. §§ 1251(a), 1311 (2018). The CWA authorizes states with approved permit programs to grant NPDES permits. 33 U.S.C. §§ 1251(b), 1342(b) (2018).

Under the Minnesota Water Pollution Control Act, Minn. Stat. §§ 115.01-.09 (2020), MPCA has authority to "administer and enforce all laws relating to the pollution of any waters of the state," including authority to grant permits requiring compliance with the CWA. Minn. Stat. § 115.03, subd. 1(a), (e). MPCA administers the NPDES and SDS permit programs. Companies like Lorentz may receive a combined NPDES/SDS permit from MPCA. Minn. Stat. § 115.07; Minn. R. 7001.1010 (2021).

Chapter 7001 of the Minnesota Rules governs how MPCA grants permits and issues certifications, including NPDES permits. *See* Minn. R. 7001.1000-.1190 (2021) (describing the NPDES permitting process). The rules governing NPDES permits "shall be construed" as complementary to the rules governing permit requirements in general—rules 7001.0010-.0210. Minn. R. 7001.1000. The rules also describe revocation procedures. Minn. R. 7001.0170-.0190 (2021).

Based on this record, we focus on the EAW, which "is a brief document" prepared to "rapidly assess the environmental effects" that could be linked to a project. Minn. R. 4410.1000, subp. 1 (2021). The process for determining whether an EAW is required is outlined in chapter 4410 of the Minnesota Rules. One way to obtain an EAW is by petition. Minn. Stat. § 116D.04 (2020); Minn. R. 4410.1000, subps. 2, 3, .1100, subp. 1 (2021). Citizens may "request the preparation of an EAW on a project by filing a petition" with signatures from "at least 100" property owners or residents of the state. Minn. R. 4410.1100, subp. 1. Citizens file an EAW petition with EQB, which then assigns an RGU to resolve the petition. *Id.*, subps. 3, 5 (2021).[2]

Lorentz raises three issues on appeal: MPCA's revocation of its general-permit coverage and its subsequent denial of a contested-case hearing (1) was based on unlawful

[2] After an RGU is assigned to resolve an EAW petition, "[t]he RGU shall order the preparation of an EAW if the evidence . . . demonstrates that . . . the project may have the potential for significant environmental effects." Minn. R. 4410.1100, subp. 6 (2021). If an EAW is necessary, the RGU shall prepare the EAW "as early as practicable" and then distribute the completed EAW to EQB and all other parties. Minn. R. 4410.1400, .1500 (2021). After the EAW is distributed, there is a 30-day review period for comments, after which the RGU "shall" determine whether an EIS is necessary. Minn. R. 4410.1600, .1700, subp. 3 (2021).

procedure and "affected by errors of law,"[3] (2) violated Lorentz's constitutional due-process rights, and (3) was arbitrary and capricious. We discuss each issue in turn.

I. MPCA's decisions to revoke Lorentz's permit coverage and to deny a contested-case hearing were not based on unlawful procedure or affected by an error of law.

The parties emphasize two rules governing the revocation and issuance of permits. Lorentz points to Minnesota Rule 7001.0190, subpart 4, which states that MPCA "shall give notice to the permittee of a proposal to revoke a permit without reissuance," this notice must give the permittee 30 days to request a contested-case hearing, and the hearing "shall" be held if requested.

MPCA directs us to Minnesota Rule 7001.0140, subpart 4, which states that MPCA "shall not make its final decision" on a proposed permit "[w]hen an environmental impact statement is required to be prepared" until "25 days or more after the adequacy decision is made." Minn. R. 7001.0140, subp. 4 (2021). Similarly, the Minnesota Environmental Protection Act (MEPA) states that if an EAW or environmental-impact statement (EIS) is required, no "final governmental decision" can be made "to grant a permit" until the EAW petition is resolved. Minn. Stat. § 116D.04, subd. 2b.

Lorentz argues MPCA violated rule 7001.0190, subpart 4, by revoking its general-permit coverage without notice and denying its contested-case-hearing request. MPCA offers a three-part response. Conceding it did not notify Lorentz before it revoked

[3] Lorentz's brief to this court separates its arguments about unlawful procedure and errors of law. But Lorentz's brief argues that the analysis supporting those arguments is the same. Thus, we combine these two arguments into one issue.

the permit coverage, MPCA contends notice was not required for two reasons: (1) permit coverage was granted under a mistake of law and fact because an EAW petition was pending when MPCA's portal automatically granted coverage to Lorentz, and (2) rule 7001.0190, subpart 4, applies to individual permits and does not apply to general-permit coverage such as that granted to Lorentz. Lastly, MPCA contends, in the alternative, that if rule 7001.0190, subpart 4, applies to general-permit coverage, then any procedural error was harmless under the facts in this case.

Because we determine that caselaw permits MPCA to immediately revoke a permit granted under a mistake of fact or law, and MPCA granted Lorentz's general-permit coverage under a mistake of fact or law, we need not consider MPCA's second argument that subpart 4 applies only to individual permits. We discuss the parties' other arguments in turn.

A. MPCA granted general-permit coverage to Lorentz under a mistake of law and fact; therefore, MPCA properly revoked permit coverage without notice.

MPCA contends that Lorentz's general-permit coverage could be immediately revoked because of "the longstanding rule" that a permit "is void *ab initio*" when "issued under a mistake of fact and in violation of the law." MPCA cites caselaw dating to 1955 in support of its position: *State ex rel. Howard v. Vill. of Roseville*, 70 N.W.2d 404, 408-09 (Minn. 1955); *Jasaka Co. v. City of St. Paul*, 309 N.W.2d 40, 43-44 (Minn. 1981); *Snyder v. City of Minneapolis*, 441 N.W.2d 781, 791-92 (Minn. 1989); *Halla Nursery, Inc. v. City of Chanhassen*, 781 N.W.2d 880, 885-87 (Minn. 2010).

In *Howard*, the relator sought a permit to construct cesspools and septic tanks on his property. 70 N.W.2d at 406. The village clerk granted this permit, believing that the cesspools and septic tanks would be installed near the relator's home for residential purposes. *Id.* One day after granting the permit, the clerk discovered that the relator intended to install a sewage system for a trailer park, and then "pursuant to direction of the village council, the permit was revoked and the work stopped." *Id.* The supreme court rejected the relator's argument that the revocation was unlawful. *Id.* at 408. The supreme court stated, "Generally, it is held that, where a permit has been issued by an authorized officer under a mistake of fact and contrary to [law], it confers no privilege on the [permittee] and even though the latter may have . . . incurr[ed] expenses, it may, nevertheless, be revoked." *Id.* The supreme court determined the permit was granted "under a mistake of fact and in direct violation of the ordinance," and when the council discovered this issue, it acted within its authority to "revoke [the permit] the following day." *Id.* at 409.

In *Snyder*, the property owner obtained a permit to build a large structure, and less than a month later, the deputy director of the city's department of inspections informed the contractor that "the building permit was revoked and to stop work" because the permit was granted in violation of zoning ordinances. 441 N.W.2d 781, 783-84. The district court entered a judgment for the property owner, finding reliance damages and negligent issuance of the permit, and this court affirmed the negligence judgment as modified. *Id*. at 785. On appeal, the supreme court considered and rejected the property owner's due-process claim under 42 U.S.C. § 1983. *Id*. at 793. Relying on *Howard*, the supreme

court held the revocation did not violate the property owner's due-process rights. *Snyder*, 441 N.W.2d at 792. The supreme court reasoned that a permit granted under a mistake of fact and contrary to law confers no privilege on the permittee. *Id.* The supreme court also determined the property owner was not deprived of a protected property interest even though the city failed to provide notice or a hearing before revoking the building permit. *Id.*

While this caselaw does not specifically address revocation of coverage under a general permit, Lorentz does not contend that the caselaw is inapplicable. Rather, Lorentz "concedes that the MPCA may revoke a permit if it establishes that the permit was issued based on inaccurate information." Still, Lorentz urges this court to conclude that MPCA should have followed rule 7001.0190, subpart 4, before revoking its general-permit coverage. Both parties agree that MPCA granted general-permit coverage to Lorentz because Lorentz denied that environmental review was required for the quarry project. Lorentz contends this was not a mistake of fact because the quarry project did not require environmental review when Lorentz applied for general-permit coverage.

We are not persuaded. MPCA is precluded from granting a permit while an EAW petition is pending. *See* Minn. Stat. § 116D.04, subd. 2b; Minn. R. 7001.0140, subp. 4. Because an EAW petition was pending when MPCA granted general-permit coverage to Lorentz, the permit was granted under a mistake of fact and law. *See Howard*, 70 N.W.2d at 409 (holding that city council may immediately revoke a permit granted under mistake of fact and law); *see also McKee v. County of Ramsey*, 245 N.W.2d 460, 462 (Minn. 1976) (stating an administrative agency's powers consist only "of the powers granted it by

statute . . . therefore . . . a determination of an administrative agency is void and subject to collateral attack where it is made either without statutory power or in excess thereof").

Lorentz also argued orally to this court that no mistake of fact occurred because the Cottonwood County board voted to deny the EAW petition before MPCA revoked Lorentz's general-permit coverage. Lorentz did not raise this argument in its brief to this court, so we need not address the issue. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (stating issues not argued in a party's briefs are waived).

Even so, we note two reasons why the record does not support Lorentz's claim that Cottonwood County rejected the EAW petition. First, EQB erroneously assigned Cottonwood County as the RGU for the EAW. Cottonwood County made a final decision to issue a CUP to Lorentz in August 2020, and the EAW petition was filed in November 2020. The relevant rules preclude EQB from designating the county as the RGU for a later-filed EAW petition. *See* Minn. R. 4410.0500, subp. 3 (2021) (stating that EQB "shall not designate as the RGU" a governmental unit that "already made its final decision[] to grant all permits" required for the project). Second, on December 11, 2020, Cottonwood County asked EQB *not* to publish notice of its decision to deny the EAW petition because the county board's official vote to deny the petition would not occur until December 15, 2020. In response, EQB notified Cottonwood County that it was erroneously assigned as the RGU and that it need not take further action on the petition.

Because MPCA granted general-permit coverage to Lorentz under a mistake of fact and law, the permit "confer[red] no privileges" on Lorentz. *Howard*, 70 N.W.2d at 409. Thus, MPCA properly revoked the permit without notice. *See id.* (holding that the city

council acted within its authority when revoking a permit without notice one day after the permit's issuance where "the permit was issued under a mistake of fact and in direct violation of [an] ordinance"); *Snyder*, 441 N.W.2d at 783-84, 792 (holding that a permit issued under a mistake of fact and contrary to law conferred no privileges on the permittee and upholding the city's revocation of the permit without notice or a hearing).

B. Alternatively, any procedural error was harmless.

MPCA contends that even if rule 7001.0190, subpart 4, applied to its revocation of Lorentz's permit coverage, Lorentz is not entitled to reversal because it "has not shown that its substantial rights have been prejudiced."

"[A]n agency's decision which is made upon unlawful procedure mandates reversal only if a party's substantial rights have been prejudiced." *Deli v. Univ. of Minn.*, 511 N.W.2d 46, 49-50 (Minn. App. 1994), *rev. denied* (Minn. Mar. 23, 1994). In *Deli*, we determined the appellants were not substantially prejudiced by the university's failure to follow proper procedures in terminating their employment because the failure to follow procedures "did not affect the eventual outcome of th[e] case." *Id.* at 50. We reasoned that the record did not suggest that termination would not have occurred had the university followed the proper procedures. *Id.*

Likewise, if MPCA had given Lorentz 30 days' notice and a contested-case hearing, MPCA still would have revoked permit coverage because, as explained, MPCA lacked statutory authority to grant Lorentz coverage under the permit while an EAW petition was pending. *See* Minn. Stat. § 116D.04, subd. 2b; Minn. R. 7001.0140, subp. 4; *McKee*, 245 N.W.2d at 462. Additionally, following the revocation, MPCA invited Lorentz to

reapply for general-permit coverage, but Lorentz chose not to do so. Thus, Lorentz fails to show it was prejudiced by MPCA's failure to provide 30 days' notice before revoking Lorentz's permit coverage. We conclude any error was harmless and does not require reversal.

II. MPCA's revocation of Lorentz's permit coverage and denial of its contested-case hearing request did not violate Lorentz's due-process rights.

Lorentz contends MPCA violated its due-process rights by failing to give notice of its permit revocation and denying Lorentz's request for a contested-case hearing. MPCA argues it did not violate Lorentz's due-process rights because "under federal and state law, a permittee has no property interest in a NPDES permit," and "a property owner has no protected property interest in a permit that is issued based on a mistake of fact and in violation of the law."

To determine whether due-process rights have been violated, courts conduct a two-step analysis. *In re Decision to Deny Petitions for Contested Case Hearing*, 924 N.W.2d 638, 644 (Minn. App. 2019) (*Deny Petitions*) (citing *Rew v. Bergstrom*, 845 N.W.2d 764, 785 (Minn. 2014)), *rev. denied* (Minn. Apr. 24, 2019). "First, we identify whether the government has deprived the individual of a protected life, liberty, or property interest." *Rew*, 845 N.W.2d at 785. Second, we "determine 'whether the procedures followed by the [government] were constitutionally sufficient.'" *Id.* (quoting *Swarthout v. Cooke*, 562 U.S. 216, 220 (2011)).

Caselaw guides our analysis under the first step. In *Snyder*, the property owner claimed that when he received a building permit, he also acquired a protected property

interest that could not be revoked without due process. 441 N.W.2d at 791. The supreme court determined "Snyder suffered no deprivation of a protected property interest" when the city revoked his permit without notice or a hearing because "where a permit has been issued by an authorized officer under a mistake of fact and contrary to zoning ordinances, it confers no privilege on the person to whom it is issued." *Id.* at 792 (quoting *Howard*, 70 N.W.2d at 408).

Also, as MPCA points out, under the federal regulations, NPDES permits "do not convey any property rights of any sort, or any exclusive privilege." 40 C.F.R. § 122.5(b) (2021). Similarly, the Minnesota Rules provide that a permit does "not convey a property right or an exclusive privilege." Minn. R. 7001.0150, subp. 3(c) (2021).

Based on *Snyder* and relevant statutes and rules, we conclude Lorentz had no property interest in the general permit because MPCA granted coverage under a mistake of fact and law and because permits do not confer a property right. Because Lorentz's claim fails under the first step in the due-process analysis, we do not consider the second step. *See Deny Petitions*, 924 N.W.2d at 644 ("If the government's action does not deprive an individual of such an interest, then no process is due.").

III. MPCA's decisions to revoke Lorentz's permit coverage and to deny a contested-case hearing were not arbitrary and capricious.

Lorentz contends MPCA's decisions were arbitrary and capricious because MPCA "undertook extraordinary steps to investigate" the EAW petition after it was denied and then "scheme[d] to resurrect the [EAW] petition." Lorentz argues that MPCA's decisions "were corrupted by outside political influences and were not made based solely on the facts

in the record" and that after revoking Lorentz's permit coverage, MPCA "repeatedly ignored statutory deadlines to delay any resolution" of the case. Lorentz claims this is proof that "MPCA was exercising its will, rather than engaging in reasoned decision-making."

MPCA disagrees and contends the record shows that citizens were concerned about the quarry project, MPCA investigated these complaints, and MPCA's "decisions do not reflect MPCA exercising its will, but rather its best judgment on how the agency could discharge its statutory obligations under [Minnesota statutes] and its permitting responsibilities."

An "agency's conclusions are not arbitrary and capricious so long as a rational connection between the facts found and the choice made has been articulated." *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 277 (Minn. 2001) (*Blue Cross*) (quotation omitted). But "[i]f the agency's decision represents its will, rather than its judgment, the decision is arbitrary and capricious." *Pope Cnty. Mothers v. Minn. Pollution Control Agency*, 594 N.W.2d 233, 236 (Minn. App. 1999). An agency's decision

> is arbitrary and capricious if the agency (a) relied on factors not intended by the legislature; (b) entirely failed to consider an important aspect of the problem; (c) offered an explanation that runs counter to the evidence; or (d) the decision is so implausible that it could not be explained as a difference in view or the result of the agency's expertise.

Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs, 713 N.W.2d 817, 832 (Minn. 2006) (*CARD*). Importantly, "[i]f there is room for two opinions on a matter, the [agency's] decision is not arbitrary and capricious, even though the court may

believe that an erroneous conclusion was reached." *In re 2005 Adjustment*, 768 N.W.2d at 118.

MPCA's actions were not arbitrary and capricious because its decisions to revoke Lorentz's permit and to deny a contested-case hearing are rationally connected to the facts MPCA found, and MPCA clearly articulated its decision in its September 2021 order. *See Blue Cross*, 624 N.W.2d at 277 ("[An] agency's conclusions are not arbitrary and capricious so long as a rational connection between the facts found and the choice made has been articulated."). Shortly after MPCA automatically granted Lorentz general-permit coverage through an online portal, MPCA began investigating the quarry project because of a citizen complaint that Lorentz broke ground on the quarry project and that its activities had potential environmental impacts. MPCA sent a representative to the quarry-project site, where Lorentz disclosed inaccuracies in its general-permit application. MPCA's investigation was rational given that the agency has the duty to administer and enforce all laws relating to pollution of any of the state's waters and to investigate the extent, character, and effect of pollution to the state's waters. Minn. Stat. § 115.03, subd. 1(a), (b).

Shortly after MPCA's visit to the quarry site, EQB notified Cottonwood County it was erroneously assigned as the RGU, instructed the county that it need not act on the EAW petition, and appointed MPCA as the RGU to the EAW petition. MPCA revoked Lorentz's general-permit coverage because the EAW petition was pending. Later, MPCA notified Lorentz it did not evaluate the EAW petition because Lorentz's permit coverage was revoked and informed Lorentz it could reapply. Lorentz did not reapply. Lorentz does not dispute MPCA's finding that "[w]ithout a pending permit application, there was no

active project for the purposes of environmental review." *See* Minn. R. 4410.0200, subp. 65 (defining "project" as "a governmental action, the results of which would cause physical manipulation of the environment, directly or indirectly"), .0300, subp. 2 (describing the scope of environmental-review rules and stating that these rules "shall apply" to various types of "projects") (2021). Finally, MPCA denied Lorentz's request for a contested-case hearing because it determined Lorentz received permit coverage under a mistake of fact.

In sum, MPCA's decisions to revoke Lorentz's general-permit coverage and to deny a contested-case hearing were based on statutes and regulations MPCA is tasked with following. MPCA did not ignore any aspect of the case; nor does Lorentz assert that any important factor went unconsidered. MPCA's decisions do not conflict with the evidence or with the statutes and rules at issue. Finally, MPCA's determination is not "so implausible that it could not be explained as a difference in view or the result of the agency's expertise." *CARD*, 713 N.W.2d at 832.

Affirmed.