STATE OF MINNESOTA

IN SUPREME COURT

A18-1007

Court of Appeals — Lillehaug, J.
Dissenting, Gildea, C.J, Anderson, J.

Save Lake Calhoun,

Respondent,

vs.

Filed: May 13, 2020
Office of Appellate Courts

Sarah Strommen, et al.,

Appellants.

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Keith Ellison, Attorney General, Liz Kramer, Solicitor General, and Christina Brown, Assistant Attorney General, Saint Paul, Minnesota, for appellants.

Erick G. Kaardal, Mohrman, Kaardal & Erickson, P.A., Minneapolis, Minnesota, for respondent.

Lewis A. Remele, Jr., Mark R. Bradford, and Colin S. Seaborg, Bassford Remele, P.A., Minneapolis, Minnesota, for amicus curiae Minneapolis Park & Recreation Board.

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S Y L L A B U S

1. A petition for a writ of quo warranto is an appropriate method to challenge the authority of the Commissioner of the Department of Natural Resources to issue an order changing the name of a lake.

2. The Commissioner of the Department of Natural Resources had authority under Minnesota Statutes § 83A.02 (1), (3) (2018) to issue an order changing the name of

a lake. That authority is not limited by Minnesota Statutes § 83A.05, subd. 1 (2018), which prohibits a county board from changing a lake name "which has existed for 40 years."

Affirmed in part, reversed in part, and remanded.

O P I N I O N

LILLEHAUG, Justice.

On January 18, 2018, the Commissioner of the Department of Natural Resources (the Commissioner) issued an order changing the official name of a well-known Minneapolis lake from Lake Calhoun to Bde Maka Ska. The Commissioner invoked his authority under Minnesota Statutes § 83A.02 (1), (3) (2018) to do so. Another statute within chapter 83A prohibits changing a body of water's name "which has existed for 40 years." Minn. Stat. § 83A.05, subd. 1 (2018). Respondent Save Lake Calhoun contends that, based on the 40-year limitation in section 83A.05, the name change was beyond the Commissioner's authority under section 83A.02, and that the courts should so rule by issuing a writ of quo warranto. Appellants (collectively, the Commissioner) respond that the writ is not available or should be abolished, and that, in any event, the 40-year limitation does not apply to the Commissioner's statutory authority to change the name of the lake.

We conclude that, in this case, the writ of quo warranto is an appropriate method to challenge the Commissioner's authority. But we decline to issue the writ because the Commissioner has statutory authority to change the names of Minnesota lakes, including those with names existing for 40 years or more. Under Minnesota law, the body of water that was Lake Calhoun is now Bde Maka Ska.

Therefore, we affirm the court of appeals in part, reverse in part, and remand.

## FACTS

This case is about the legal name of a lake entirely located within the City of Minneapolis. Among the names by which Native people knew it was Bde Maka Ska. In the 1820s, white people began to call it Lake Calhoun, and eventually that became the official name of the lake. The name has been in existence for considerably more than 40 years.

In April 2015, the Minneapolis Park and Recreation Board passed a resolution to develop a master plan for the Chain of Lakes Regional Park, which includes the lake at issue. The plan, approved in 2017, proposed to change the official name of the lake from Lake Calhoun to Bde Maka Ska.

After approving the master plan, the park board directed its staff to circulate and forward to the Hennepin County Board, via filing with the county auditor, a petition to change the lake name signed by at least 15 registered voters. The idea seems to have been to initiate a name change under Minnesota Statutes §§ 83A.05–.07 (2018), which grant county boards the authority to change the names of bodies of water, subject to Commissioner approval.

The petition was filed and presented to the county board. But the county attorney advised the board, citing section 83A.05, subdivision 1, that the board did not have the authority to change a lake "name which has existed for 40 years."

So, the county board took another tack. After public notice, public comment, and a public hearing, the county board passed Resolution No. 17-0489 on November 28, 2017,

"recommend[ing]" that the Department of Natural Resources "take the steps necessary" to change the name from Lake Calhoun to Bde Maka Ska.

The county submitted the resolution and other supporting documents to the Commissioner. The Commissioner received comments supporting and opposing the name-change, including a petition from Save Lake Calhoun submitted on behalf of homeowners near the lake. After considering the submissions, and invoking his authority under Minnesota Statutes section 83A.02, paragraphs (1) and (3),[1] the Commissioner decided that it would "serve the public interest" to change the name of the lake. By order dated January 18, 2018, the Commissioner renamed it Bde Maka Ska.

In response, Save Lake Calhoun petitioned the court of appeals for a writ of certiorari. The court of appeals dismissed the petition because the Commissioner's order was not a reviewable quasi-judicial decision. *In re Proposed Renaming of Lake Calhoun*, No. A18-0261, Order at 4 (Minn. App. filed Mar. 6, 2018).

On April 25, 2018, Save Lake Calhoun petitioned the Ramsey County District Court for a writ of quo warranto. Save Lake Calhoun argued that, because the Lake Calhoun name had existed for more than 40 years, the Commissioner had exceeded statutory authority by changing the name. The Commissioner moved to dismiss or, in the alternative, to change venue. By order filed June 15, 2018, the district court denied the petition for a

[1] The Commissioner's order did not purport to invoke any statutory authority under Minn. Stat. §§ 85A.05–.07. Thus, there is no material issue of disputed fact as to what authority the Commissioner invoked.

writ of quo warranto, reasoning that ongoing action was necessary to obtain the writ and that there was no such action.

Save Lake Calhoun appealed. The court of appeals reversed the district court and directed that judgment be entered for Save Lake Calhoun. *See Save Lake Calhoun v. Strommen*, 928 N.W.2d 377, 390 (Minn. App. 2019). The court determined that the writ of quo warranto was available because the Commissioner's action was an ongoing exercise of power. *Id.* at 385–86. Reaching the merits of the case, the court concluded that the Commissioner lacked the authority to change a lake name in existence for more than 40 years. *Id.* at 388–89. The Commissioner sought review, and we granted it.

## ANALYSIS

### I.

The Minnesota Constitution, Article VI, Section 2, gives us "original jurisdiction in such remedial cases as are prescribed by law." This includes the power to issue ancient writs including, as relevant here, writs of quo warranto. Minn. Stat. § 480.04 (2018). Quo warranto is an available remedy to challenge official action not authorized by law. *State ex rel. Graham v. Klumpp*, 536 N.W.2d 613, 614 n.1 (Minn. 1995) (explaining that a writ of quo warranto is "designed to test whether a person exercising power is legally entitled to do so." (citation omitted) (internal quotation marks omitted)).

Although we have original jurisdiction to issue the writ, in *Rice v. Connolly*, we instructed that petitions for the writ should be filed in the first instance in district court. 488 N.W.2d 241, 243–44 (Minn. 1992). Consistent with that instruction, Save Lake Calhoun commenced this quo warranto matter in the district court. The district court

dismissed the petition for failure to state a claim upon which relief can be granted. We review such a dismissal de novo, accepting the facts alleged in the complaint— here, the petition—as true and construing all reasonable inferences in favor of Save Lake Calhoun. *See Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 606 (Minn. 2014).

The Commissioner argues in three respects that quo warranto is not—or should not be—available in this case. First, the Commissioner argues that Save Lake Calhoun cannot use a writ of quo warranto to challenge official misconduct. But Save Lake Calhoun's petition alleges more than mere misconduct; it alleges that an official has acted without legal authority. *State ex rel. Lommen v. Gravlin* highlights this distinction. 295 N.W. 654, 655 (Minn. 1941).

In *Lommen*, the plaintiff filed a petition for a writ of quo warranto to prevent the Commissioner of Administration from purchasing uniforms without competitive bidding. *Id.* at 654–55. We explained that a writ of quo warranto cannot be used as "preventive of, or remedy for, official misconduct and [may] not be employed to test the legality of the official action of public or corporate officers." *Id.* at 655 (citation omitted) (internal quotation marks omitted). In that case, neither party questioned the official's legal authority to purchase uniforms. Instead, the issue was whether the official could properly exercise that authority without using the competitive-bidding process.

By contrast, Save Lake Calhoun alleges that the Commissioner exceeded the statutory authority of the office, usurping the power held by others. A petition for a writ of quo warranto properly challenges this type of action because it concerns whether legal authority exists, not whether legal authority has been misused.

Second, the Commissioner, relying on the decision of the court of appeals in *State ex rel. Sviggum v. Hanson*, argues that a writ of quo warranto is not available because no ongoing action exists. 732 N.W.2d 312, 319–20 (Minn. App. 2007). Although *Sviggum* discussed the absence of ongoing action, its primary focus was on mootness. *Id.* at 322–23.

*Sviggum* arose out of a government shutdown. *Id.* at 315. Because the Legislature did not appropriate funds for necessary executive functions, a district court issued an order authorizing the finance commissioner to fund those functions. *Id.* Subsequently, the Legislature passed an appropriations bill that retroactively funded those same functions. *Id.* at 316. Because the Legislature's bill was retroactive, *it*—not the district court order—funded the executive functions and effectively mooted the district court's order. *Id.* at 323. Accordingly, the court of appeals dismissed the petition for lack of a case or controversy. *Id.* *Sviggum* is weak support for the Commissioner's position here. This case is not moot; the Commissioner's order remains in effect.

Our precedent confirms that quo warranto is an available remedy to challenge the type of conduct at issue in this case. In *State ex rel. Palmer v. Perpich*, 182 N.W.2d 182, 183 (Minn. 1971), we considered the lieutenant governor's statutory authority to call the senate to order and require each senator, when called, to present a certificate of election. *See* Minn. Stat. § 3.05 (2018). When calling the senate to order, the lieutenant governor rejected a valid certificate of election. *Palmer*, 182 N.W.2d at 183–84. We concluded that the lieutenant governor acted without legal authority, explaining that "[n]owhere do we find in our Constitution or our statutes any provision giving the lieutenant governor the right or power to determine who is eligible to be a member of the senate." *Id.* at 185–86.

We all but issued the writ after concluding that the lieutenant governor had exceeded his statutory and constitutional authority.[2] *Id.* at 185–86. In short, *Palmer* demonstrates that a writ of quo warranto is an available remedy to challenge whether an official's action exceeded the official's statutory authority. *See also State ex rel. Danielson v. Vill. of Mound*, 48 N.W.2d 855, 865 (Minn. 1951) (issuing a writ of ouster after determining that the village's officers annexed a territory not "within the scope of the power delegated to [them]").[3]

Here, Save Lake Calhoun asserts that the Commissioner exceeded the Commissioner's statutory authority by changing the name of the lake to Bde Maka Ska. Like the lieutenant governor in *Perpich*, and like the village officers in *Danielson*, quo warranto is available to decide whether the Commissioner exceeded statutory authority.[4]

Third, the Commissioner urges that we abolish the common-law writ of quo warranto. We decline to do so. We made clear in *Rice*, in 1992, that the writ "exist[s] side

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[2] Although we did not issue the writ, we "assume[d] that the parties w[ould] now conform to this opinion without the necessity of issuing a formal writ." *Palmer*, 182 N.W.2d at 186.

[3] The court of appeals relied upon *State ex rel. Mattson v. Kiedrowski*, 391 N.W.2d 777 (Minn. 1986), and *Rice*, 488 N.W.2d 241, for the proposition that ongoing action exists here. *Save Lake Calhoun*, 928 N.W.2d at 385–86. But neither case discusses ongoing action, and our precedent does not require it.

[4] The Commissioner also argues that a writ of quo warranto is unavailable because a declaratory judgment action is available. But, when questioned during oral argument about the availability of a declaratory judgment action, the Solicitor General was equivocal about whether declaratory relief was available and, if so, under what circumstances. Accordingly, we are not persuaded that the petition should be dismissed on that ground.

by side with the appropriate alternative forms of remedy heretofore available." 488 N.W.2d at 244. The underlying reason for the writ—to rein in government officials who exceed their constitutional or statutory authority—remains as valid as ever. To the extent that anyone might seek to misuse the quo warranto petition process, the judiciary has the power and the tools to deal with any abuses.[5]

II.

Having established that the writ is available if the Commissioner exceeded statutory authority, we turn to the merits of the dispute. Did the Commissioner have the statutory authority to change a lake name in existence for 40-plus years?

A.

In this case, the relevant facts are undisputed, so the question is one of law that we review de novo. *State v. Bakken*, 883 N.W.2d 264, 267 (Minn. 2016).[6] The legal issue is whether the Commissioner exceeded authority by failing to heed a statutory time limitation. This issue is a matter of statutory interpretation. Our role in interpreting statutes "is to ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2018). "If the intent is clear, we apply the statute according to its plain meaning." *Fish v. Ramler*

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[5] The writ of quo warranto discussed here is not one of the ancient writs excluded from the Minnesota Rules of Civil Procedure by Rule 81.01(a) and Appendix A. As with any other actions of a civil nature, and consistent with the Rules, district courts have the power to administer quo warranto matters "to secure [their] just, speedy, and inexpensive determination." Minn. R. Civ. P. 1.

[6] The dissent invokes John Adams's famous observation that "[f]acts are stubborn things." But here, the material facts—stubborn or otherwise—are undisputed. Therefore, the question before us is one of statutory interpretation, and thus is one of law.

*Trucking, Inc.*, 935 N.W.2d 738, 741 (Minn. 2019). "[W]e do not add words or phrases to unambiguous statutes or rules." *Walsh*, 851 N.W.2d at 604.

In determining a statute's plain meaning, "words and phrases are construed according to rules of grammar and according to their common and approved usage." Minn. Stat. § 645.08(1) (2018); *see also State v. Garcia-Gutierrez*, 844 N.W.2d 519, 521 (Minn. 2014). We do not read words in isolation; the meaning of a word is informed by how it is used in the context of a statute. *State v. Henderson*, 907 N.W.2d 623, 626 (Minn. 2018). We consider a statute as a whole "to harmonize and give effect to all its parts." *Van Asperen v. Darlings Olds, Inc.*, 93 N.W.2d 690, 698 (Minn. 1958). And we presume that the Legislature "intended the entire statute to be effective and certain." *Id.*

With these canons of statutory interpretation in mind, we turn to the parties' arguments on how to interpret the lake-name statutes. Save Lake Calhoun's position is straightforward; it contends that the controlling statute is Minnesota Statutes § 83A.05, subd. 1, which provides: "A name of a lake, river, stream, or other body of water may be given or changed under sections 83A.05 to 83A.07 except that a name which has existed for 40 years may not be changed under the provisions of sections 83A.05 to 83A.07."

Save Lake Calhoun acknowledges that the Commissioner has authority to change a lake name, but argues that this authority is limited by sections 83A.05 to 83A.07. Save Lake Calhoun points specifically to Minnesota Statutes § 83A.02(3), which provides that the Commissioner shall change a lake name "in cooperation with the county boards and with their approval." Save Lake Calhoun reasons that the reference to county boards ties

together sections 83A.02 and 83A.05, thus binding the Commissioner to the 40-year limitation in section 83A.05, subdivision 1.

The Commissioner responds that section 83A.05 does not bind the Commissioner. Instead, chapter 83A establishes two avenues for changing a lake name: the process in sections 83A.05 to 83A.07 that addresses county board determinations; and a separate process in sections 83A.02 to 83A.03 that gives the Commissioner the power to determine the names, not just of lakes, but of streams, places, and other geographic features.

In particular, the Commissioner points to two paragraphs of section 83A.02. Paragraph 1 says that the Commissioner shall "determine the correct and most appropriate names of the lakes, streams, places and other geographic features in the state . . . by written order." Paragraph 3 provides that the Commissioner shall change names "in cooperation with the county boards and with their approval . . . with the end in view of eliminating, as far as possible, duplication of names within the state." The Commissioner asserts that the power bestowed by paragraph 1 is independent of the Commissioner's power bestowed by paragraph 3 and may be exercised without the involvement of county boards. In any event, the Commissioner argues, the 40-year time limitation in section 83A.05, subdivision 1, does not limit the Commissioner's power granted by paragraphs 1 and 3 of section 83A.02.

B.

After a careful review of the entirety of chapter 83A, and reading the chapter and its sections as a whole, we conclude that the Commissioner had the authority to change the name of the lake from Lake Calhoun to Bde Maka Ska, even though the Lake Calhoun name has existed for more than 40 years.

Reading and comparing the plain language of sections 83A.05–.07 to the plain language of sections 83A.02–.03 shows that the Legislature created two avenues to change lake names. The avenue in sections 83A.05–.07 is what we will refer to as the county board process. That process is commenced by a petition of 15 or more legal voters. Minn. Stat. § 83A.05, subd. 2(a). Detailed requirements for the petition, a bond, notice, and hearing are included. Minn. Stat. § 83A.05, subd. 2(c) (describing what a petition must include); Minn. Stat. § 83A.06, subds. 3–5 (describing the bond, notice, and hearing). The county board can "select and approve a name as it determines is in the permanent, best interests of the affected county." Minn. Stat. § 83A.07, subd. 1. Notably, county board selection and approval is not the last step in the county board process; any county board determination must be approved by the Commissioner. Minn. Stat. § 83A.04.

The county board process does not apply to lakes whose official names have been in existence for 40 years. The plain language of section 83A.05, subdivision 1, makes clear that a lake name "may be given or changed *under sections 83A.05 to 83A.07* except that a name which has existed for 40 years may not be changed *under the provisions of sections 83A.05 to 83A.07*." (Emphasis added.) The two specific references to "sections 83A.05 to 83A.07" demonstrate unambiguously that the 40-year limitation applies specifically and solely to the county board process, and not to the rest of chapter 83A. Put another way, the 40-year limitation is a check on the county boards, not on the Commissioner.

The other avenue to change a lake name—what we will call the Commissioner process—is found in sections 83A.02–.03. Paragraph 1 of section 83A.02 gives the Commissioner authority to "determine the correct and most appropriate names" of lakes.

Minn. Stat. § 83A.02(1). And that power covers not just lake names; specifically, the Commissioner is authorized to "determine the correct and most appropriate names of the lakes, streams, places and other geographic features in the state." *Id.* The meaning of the word "determine" is clear; it means to decide officially. *See Merriam-Webster's Collegiate Dictionary* 315 (10th ed. 1996) ("[T]o fix conclusively or authoritatively"); *see also Determination*, *Black's Law Dictionary* (10th ed. 2014) ("The act of deciding something officially."). And as chapter 83A makes plain, the Legislature used the word "determine" to include both "giving" and "changing" names. Section 83A.04 refers to both a name change and a name establishment as "determining or fixing such name." Minn. Stat. § 83A.04. So do the sections about the county board process, which include both lake naming and renaming. Minn. Stat. § 83A.05, subd. 1. Subdivisions 2 and 6 of section 83A.06 use the word "determine" to include both lake naming and renaming. So does section 83A.07, subdivision 1, which refers to county boards "determining the name of a body of water."[7]

The dissent sees section 83A.02(1), the Commissioner's power to determine, as a "record-keeping function." But paragraph 1 expressly gives the Commissioner the power to decide, not just the "correct" name, but the "most appropriate name." And the other uses of the word "determine" in chapter 83A do not smack of mere record-keeping. *See* Minn.

[7] Under section 83A.02(1), the Commissioner's chosen name is a "[n]ame designation[]" to which the rulemaking provisions of the Administrative Procedures Act do not apply. In this context, the word "designation" means "giving the . . . thing a particular description" or "a name or title." *Designation*, *Black's Law Dictionary* (10th ed. 2014).

Stat. §§ 83A.04, 83A.06, subds. 2, 6, 83A.07, subd. 1. Finally—and bearing in mind that paragraph 1 covers not just bodies of water—if the dissent's analysis were correct, once a record name was identified, no place or geographic feature could ever be renamed, whether the name was greater or less than 40 years old. That makes no sense.

Significantly, nowhere in the sections regarding the Commissioner process is there a word, or even a hint, about any time limitation on the power to determine. To the contrary: the 40-year limitation in section 83A.05, subdivision 1, is expressly confined to sections 83A.05 to 83A.07, the county board process. This shows that the Legislature knew very well how to limit public officials' authority to change long-existing lake names. But it did not so limit the Commissioner.[8] Therefore, the Commissioner had authority under section 83A.02(1) to "determine the correct and most appropriate name[]" of the lake.

Because the Commissioner had, and exercised, authority under paragraph 1 of section 83A.02, we could avoid the question of whether the Commissioner also had authority under paragraph 3 of section 83A.02, which has the stated purpose of involving county boards when "the end in view" is "eliminating, as far as possible, duplication of

[8] Not only is the Commissioner's power broader than a county board's as to what may be named and renamed (and when), the Commissioner's grounds for action are broader than a county board's. A county board may consider only the "permanent, best interests" of the county. Minn. Stat. § 83A.07, subd. 1. By contrast, the Commissioner has the power to "determine the . . . most appropriate name[]" of a lake. Minn. Stat. § 83A.02(1). The Commissioner can consider the best interests of the entire state, which holds title to our navigable waters and their beds, Minn. Stat. § 1.0451, subd. 1 (2018), "in trust for the people of the state," *State v. Longyear Holding Co.*, 29 N.W.2d 657, 669 (Minn. 1947).

names within the state."[9] We address the issue, however, because both Save Lake Calhoun and the dissent contend that the phrase in section 83A.02(3)—"in cooperation with the county boards and with their approval"—prohibits not just county boards, but also the Commissioner, from changing a name in existence for 40 years.

We are not persuaded by this contention. Again, section 83A.05, subdivision 1, expressly restricts the 40-year time limitation to the county board process. By contrast, section 83A.02(3) requires county board "approval," but it does not incorporate—expressly or impliedly—the county board process in sections 83A.05–.07.[10] Nor does paragraph 3 state the form of approval required.[11] In the legal world, "approval" means "[t]o give formal sanction to; to confirm authoritatively." *Approval*, *Black's Law Dictionary* (8th ed. 2004). Here, there is no question that the county board formally approved the change in

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[9] In this case, the record reflects that another Lake Calhoun is located in Kandiyohi County.

[10] According to the Commissioner's Order, the Department of Natural Resources has a long standing policy to encourage counties that request a name change to comply with the notice and hearing requirements in section 83A.06. In this case, as recognized in the Order, such notice and hearing was requested by the department and the county board complied with the request.

[11] By contrast, section 83A.04, which requires Commissioner approval of any county board order establishing or changing the name of body of water, requires the Commissioner's "written approval . . . endorsed on any resolution determining or fixing such name," with the endorsement "prior to recording with the county recorder."

name from Lake Calhoun to Bde Maka Ska; indeed, it specifically requested and recommended it. Thus, the Commissioner made the change "with their approval."[12]

Accordingly, the Commissioner had authority under either and both paragraphs 1 and 3 of section 83A.02 to change the lake name, and the 40-year time limitation in section 83A.05, subdivision 1, did not apply to that decision.

C.

The dissent agrees that the plain language of chapter 83A controls, but reads the chapter to apply the 40-year limitation to the Commissioner. For the reasons already explained, this reading is unreasonable, so the statute is not ambiguous. *See Henderson*, 907 N.W.2d at 625 ("A statute is ambiguous if it is susceptible to more than one reasonable interpretation.").

Despite acknowledging that a plain-language statutory reading makes the legislative history irrelevant, the dissent devotes five pages to that history. In the interest of completeness, we have carefully examined that history. Not only does it fail to undermine our plain-language reading, rather, it firmly supports it.

The county board process, including the 40-year time limitation, was enacted in 1925. Act of Apr. 8, 1925, ch. 157, 1925 Minn. Laws 146–48. It eventually became part of Minnesota Statutes chapter 378, which dealt with county board powers and duties relating to bodies of water. Minn. Stat. ch. 378 (1941).

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[12] Save Lake Calhoun has not argued that the approval of the Kandiyohi County Board—the county within which another Lake Calhoun is located—was required. In any event, that lake name was not changed.

The Commissioner process was enacted in 1937 as part of the creation of the State Geographic Board. Act of Mar. 8, 1937, ch. 63, 1937 Minn. Laws 108. It eventually became part of Minnesota Statutes chapter 354, which dealt with the powers and duties of the state board. The state board was given the duty and the power to "determine the correct and most appropriate names of the lakes, streams, places and other geographic features." Minn. Stat. § 354.02(1) (1941). And it was given the further duty and power, "[i]n cooperation with the county boards and with their approval, to change the names of lakes, streams, places, and other geographic features." Minn. Stat. § 354.02(3) (1941).

Nowhere in chapter 354 did the Legislature place any time limitation on the state board's power over names. To the contrary, it granted to the state board the same broad powers regarding the names of lakes and streams as to the names of places and geographic features. At the same time, the Legislature further restricted the power of county boards over names of bodies of water, as follows: "No county board shall order the change of or establish the name of any lake, river, or other body of water without the written approval of" the state board. Minn. Stat. § 354.04 (1941). That limitation on the county board process continues to this day. *See* Minn. Stat. § 83A.04.

The question of whether the state board could change the name of a body of water without regard to the 40-year limitation found in chapter 378—the county board process—arose soon thereafter, in 1940. Op. Att'y Gen., No. 273a (Apr. 26, 1940). The issue was whether Gnatt Lake (unfortunately-named almost half a century before) could be given a more pleasant moniker. *Id.* at 1. The question was answered quickly and definitively by a letter opinion of the Attorney General. *Id.* He opined that there was no

express or implied legal limitation on the power of the state board to rename, and that the decision "is one which calls for the exercise of sound judgment and discretion by the board." *Id.* at 2. In the 80 years since, the Legislature has not taken issue with that proposition.

The final relevant pieces of legislative history do not help the dissent's analysis, either. In the 1960s, chapter 354, containing the state board process, became chapter 83A. In 1969, all of the state board's powers were transferred to the Commissioner. Minn. Stat. § 83A.015 (1969). Chapter 83A contained no 40-year limitation.

In 1990, the Legislature transplanted the county board process from chapter 378 into chapter 83A, by adding sections 83A.05 to 83A.07. Act of Apr. 6, 1990, ch. 391, art. 8, § 7, 1990 Minn. Laws 354, 693–95 (codified at Minn. Stat. § 83A.05–.07). But, in so doing, the Legislature made crystal clear—by use of the words "under the provisions of sections 83A.05 to 83A.07"—that the 40-year limitation was not transplanted into the remainder of chapter 83A. Minn. Stat. § 83A.05, subd. 1. The dissent is exactly correct that the 1990 amendment was not intended to change the law—and it did not. The law since 1937 has been that the state board—now the Commissioner—has the power to name and rename lakes, streams, places, and geographic figures, regardless of the age of their names.

Finally, a few words are necessary in response to the dissent's fear that the Commissioner, an "unelected officeholder in St. Paul," will use "absolute power" to change

many beloved Minnesota lake names over the objections of local officials.[13] If history is any guide, that fear is misplaced. The power to name and rename lakes has been vested in the State Geographic Board, and then the Commissioner, since 1937. Nothing in the record suggests that a program of wholesale lake renaming over local objection is in the offing.

In any event, who should have the power to name lakes, and whether all 40-year-old names of bodies of water, places, and geographic features, should be permanent, are matters of policy for the Legislature. If the Legislature sees or foresees excessive name-changing, it can legislate to curb it.[14]

In sum, when we interpret chapter 83A as a whole and read the plain language of its sections, we conclude that the 40-year limitation on a lake name-change applies only to county boards, not to the Commissioner. Applying our interpretation to the undisputed facts of this case, we conclude that the Commissioner had statutory authority to change the name from Lake Calhoun to Bde Maka Ska.

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[13] Obviously, this scenario is not present in this case. Here, the Commissioner and the county board agreed that the name should be changed from Lake Calhoun to Bde Maka Ska.

[14] The Legislature may legislate so long as it does not pass a local or special law in violation of Article XII, Section 1 of the Minnesota Constitution. Minn. Const. art. XII, § 1. For example, in 1995, the Legislature directed that the Commissioner, in cooperation with county boards, rename all geographic features in Minnesota that contained the word "squaw." Act of Apr. 18, 1995, ch. 53, § 1, 1995 Minn. Laws 100.

## CONCLUSION

Accordingly, we affirm the decision of the court of appeals in part and reverse in part, and remand to the district court for entry of judgment in favor of appellants.

Affirmed in part, reversed in part, and remanded.

D I S S E N T

GILDEA, C.J. (dissenting).

The lakes in Minnesota are one of our greatest resources, and much of our State's identity is bound up in our justifiable and collective pride in our lakes. *See, e.g.*, *Petraborg v. Zontelli*, 15 N.W.2d 174, 182–83 (Minn. 1944) ("Our North Star state has been called the Land of 10,000 Lakes. It has a remarkable natural endowment of lakes, rivers, waterfalls, and woodlands . . . . These lakes constitute the outstanding natural attraction of our state. An enlightened public opinion has been aroused to an appreciation of the extent and importance of this endowment."). With respect to our lakes, the majority's decision today wrests some measure of control over this resource from those with the greatest tie to it—those who live on or near the lake—and gives over that control to an unelected officeholder in St. Paul—the Commissioner of the Department of Natural Resources ("DNR").[1] As a result of today's decision, the DNR has unbounded power to change the name of every lake in Minnesota, at any time and for any (or no) reason. Under today's decision, if the DNR desires to change the names of Lake Vermilion, Lake Minnetonka, Lake of the Woods, Gull Lake, etc., it can do so without any input from the communities where these lakes are located.

This decision should upset and unsettle every Minnesotan and most especially those who live in a community with a lake. Hopefully, the Legislature will correct the majority's

[1] Because this case is about an abuse of governmental power, I agree with the majority that the writ of quo warranto is an available remedy.

error. In the meantime and because the majority's decision is inconsistent with legislative intent and settled precedent, I dissent.[2]

This case is about chapter 83A. In this statute, the Legislature addresses lake-name changes in two places. In section 83A.05, voters are given the power to initiate lake-name changes. If 15 or more voters in a county with a lake desire to change that lake's name, they can petition the county board to make the change. Minn. Stat. § 83A.05, subd. 2(a) (2018). The statute lays out a detailed process the county board is to follow, Minn. Stat. §§ 83A.05–.07 (2018), and if at the end of that process, the county board approves of the name change, the county must secure the "written approval" of the DNR before the change becomes effective, Minn. Stat. § 83A.04 (2018). Importantly and dispositively for this case, the county board's power does not extend to lake names that have been in existence for more than 40 years. Minn. Stat. § 83A.05, subd. 1.

The other place where lake-name changes are referenced in the statute is section 83A.02(3). In this provision, the DNR is authorized, "in cooperation with the county boards and with their approval," to change the names of lakes to avoid name duplication. Minn. Stat. § 83A.02(3) (2018).

Neither of these provisions authorize the DNR to do what it did here.

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[2] The majority sophistically seeks to downplay the impact of its rule of law, emphasizing that "[f]rom 1937 to 1990, the Legislature took no action to limit the State Geographic Board's power to change old lake names." Of course, before this decision, there was no reason for the Legislature to step in. Until this decision, nobody—not the Legislature, not the people of Minnesota, and not even the DNR Commissioner—knew that the DNR had the power to change lake names without limitation. Taking a lesson from history, we know that "absolute power corrupts absolutely." Gertrude Himmelfarb, *Lord Action: A Study in Conscience and Politics* 239 (1952).

I.

I begin with the lake-name-change provision in section 83A.05 and John Adams' reflection that "[f]acts are stubborn things." Frederic Kidder, *History of the Boston Massacre, March 5, 1770; consisting of the narrative of the town, the trial of the soldiers: and a historical introduction, containing unpublished documents of John Adams, and explanatory notes,* 3 (Joel Munsell ed., 1870). The facts in this case compel the conclusion that the lake-name change was a change made under section 83A.05. Accordingly, I would hold that the DNR's action here—changing the name of a lake that is more than 40 years old—is unlawful.

The petitioners—people who live and work on and near the lake at issue—brought this action arguing that the lake's name could not be changed because the lake had been named "Lake Calhoun" for more than 40 years. The petitioners relied on Minn. Stat. § 83A.05, subd. 1. This statute plainly and unambiguously prohibits the changing of a lake's name when that name "has existed for 40 years." *Id*. The court of appeals agreed with the petitioners. *Save Lake Calhoun v. Strommen*, 928 N.W.2d 377, 386 (Minn. App. 2019).

The majority comes out differently, holding that the 40-year limitation does not apply because the name change here was not, as a factual matter, a name change under the provisions of sections 83A.05–.07. Rather than a change under sections 83A.05–.07, the

majority concludes that this was a name change under a different provision in the statute—section 83A.02 (2018).[3] I disagree.

The parties agree that Lake Calhoun has been the name of the lake for more than 40 years. And, as the majority acknowledges, the process to change the name of Lake Calhoun to Bde Maka Ska did not begin with the DNR; it began in 2015 when the Minneapolis Park and Recreation Board began developing a master plan for the Chain of Lakes Regional Park.

The park board wanted to change the name of the lake, and it asked its legal counsel to research whether it had authority to do so. The park board's counsel concluded that the "park board lacked the authority to change the name of the lake" and highlighted that the only process to change a lake name in Minnesota is the county board process under sections 83A.05–.07. *Save Lake Calhoun*, 928 N.W.2d at 380.

Because it had no authority, the park board placed its hope in the Hennepin County Board. Following the process outlined in section 83A.05, the park board directed staff to obtain and forward to the County Auditor a petition signed by at least 15 registered voters. *See* Minn. Stat. § 83A.05, subd. 2(a) ("Fifteen or more legal voters residing in a county where all or a part of a body of water is located may petition the county board of the county where the petitioners reside or the body of water is located to change the name of . . . a . . . lake . . . ."). Once it had the required signatures, the park board submitted the voter petition

[3] The majority reaches this conclusion even though it concedes that the idea behind the petition "seems to have been to initiate a name change under Minnesota Statutes §§ 83A.05–.07."

to the county board to change the name of Lake Calhoun. In addition to this petition, the county board received two other voter petitions, each signed by more than 15 voters who represented that they lived in Hennepin County.

The county board also sought an opinion from its legal counsel, the county attorney's office, to research whether it had authority to change Lake Calhoun's name. The county attorney concluded that the board had "no role in renaming a water body that has existed for more than 40 years," citing Minn. Stat. § 83A.05, subd. 1. *Save Lake Calhoun*, 928 N.W.2d at 381.

In legal terms, and for our purposes here, this should have been the end of the attempted name change: a petition, brought under sections 83A.05, sought to change the name of Lake Calhoun—a name that had existed for more than 40 years. Under section 83A.05, the Legislature has prohibited such a name change, so that should have been the end of the story.[4]

But, as the majority cryptically confirms, "the county board took another tack." Put differently, the county board sought an end run around the legal framework. Although the county attorney had concluded that the county board could not change the name of a lake

[4] The Hennepin County Board Commissioner who offered and moved to vote on the name change also confirms that this was a name change pursued under section 83A.05 when he explained that the Hennepin County Board was "responding to a petition from residents that went through the park board, which is where the lake is located right now." *Bd. of Comm'rs – Nov 28th, 2017*, Hennepin Cty., Minn., (http://hennepinmn.granicus.com/MediaPlayer.php?view_id=10&clip_id=3202&meta_id=92848) (documenting the comments of the Hennepin County Board Commissioner at 26:55). By referring to the residents' petition, the commissioner confirms that this was a name-change pursued under section 83A.05, subdivision 2.

that had existed for 40 years, the county attorney reached out to the DNR Commissioner's office. A DNR staff member suggested that the DNR would take the position to interpret section 83A.02 so as to give the DNR unrestricted power to change the name of Lake Calhoun. But evidently, even in the eyes of the county attorney, this was risky, so he sought reassurance.

The county attorney sent a direct inquiry to the Commissioner, Tom Landwehr, asking him to confirm that the DNR would interpret Minn. Stat. § 83A.02 as giving the Commissioner unrestricted power to change Lake Calhoun's name. In his letter, the county attorney qualified his request, stating that "[s]tate law does not outline a clear process for renaming water bodies with names that have existed for more than 40 years." He then explained that he wanted the Commissioner to confirm that the DNR did not "[take] the position that there was no legal authority under Minnesota law to rename the lake" and "that [DNR] would consider a name change request for Lake Calhoun from the Hennepin County Board of Commissioners if it were to approve a name change *after following the process outlined in Minn. Stat. §§ 83A.05–.07*." (Emphasis added.)

Although there is no official response in the public record, the Commissioner must have eventually confirmed he would so act because the county board moved forward with Resolution No. 17-0489.[5] In this resolution, the county board "recommend[ed]" that the

[5] Also, on the day that the county board passed its resolution, one of the Hennepin County Commissioners expressed that the DNR "gave a very expansive interpretation of the statute, and really said, forget that language about 40 years." *Bd. of Comm's – Nov 28th, 2017*, Hennepin Cty., Minn., (http://hennepinmn.granicus.com/MediaPlayer.php?view_id=10&clip_id=3202&meta_id=92848) (documenting the comments of the Hennepin County Board Chair at 33:57).

DNR change the name of Lake Calhoun to Bde Maka Ska. But the statute prohibits this name change because the petition was initiated under the name-change process set out in *section 83A.05*. Put differently, this was not a name change initiated under the DNR's authority in section 83A.02. The facts make it clear that this name change was not the DNR exercising power under section 83A.02; this was local officials trying to change the name of a lake that they knew they had no power to change.

These facts, stubborn though they may be, lead inescapably to the conclusion that the name change of the lake cannot stand because it violates the statute. *See* Minn. Stat. § 83A.05, subd. 1 ("A name of a lake . . . may be given or changed under sections 83A.05 to 83A.07 except that a name which has existed for 40 years may not be changed under the provisions of sections 83A.05 to 83A.07."). I would resolve the case on that basis and affirm.[6]

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[6] If the case cannot be resolved on this basis, then, at a minimum, the question as to whether this name-change took place under sections 83A.05–.07, as I conclude, or under section 83A.02, as the majority concludes, is one of fact that needs to be remanded to the district court. As we recently reaffirmed, "[t]here is no justification for dismissing a complaint for insufficiency . . . unless it appears to a certainty that the plaintiff would be entitled to no relief under any state of facts which could be proved in support of the claim." *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 601–02 (Minn. 2014) (citation omitted) (internal quotation marks omitted). The petition for quo warranto alleges that the Hennepin County Board received the petition that section 83A.05 contemplates and the Hennepin County Board's Resolution establishes that the board received a petition from "registered voters in Hennepin County." These facts are more than sufficient to withstand our "broad-brush" pleading standard. *Walsh*, 851 N.W.2d at 605. And to the extent that the majority contends that these facts leave room for some other inference as to how this lake-name change was initiated, we have no power, under our recent precedent, to resolve such inferences as a matter of law. *See, e.g., Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017) (noting that summary judgment is "inappropriate when reasonable persons might draw different conclusions from the evidence" (citation omitted) (internal quotation marks omitted)).

II.

The majority largely leaves out the facts and proceeds from the premise that the name change was done lawfully under section 83A.02. Even if we could ignore the facts and make the leap that section 83A.02 is relevant, the majority reaches the wrong conclusion under that statute.

In section 83A.02, the Legislature sets out "powers and duties" of the DNR:

> The commissioner of natural resources shall:
>
> (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.

We must interpret the statute so that none of the powers or duties in the statute renders any other power "superfluous, void, or insignificant." *Amaral v. Saint Cloud*

*Hosp.*, 598 N.W.2d 379, 384 (Minn. 1999). In other words, our job is to give effect to all of the provisions in section 83A.02, and that means that the paragraphs in section 83A.02 have to address different things. Bearing our judicial obligation in mind, the statute is easily understood.

Paragraph 1 sets out the DNR's obligation to write down the names of the lakes in Minnesota and choose the name in the event that there are competing names for the same lake. Paragraph 2 sets out the DNR's power to name lakes that are yet unnamed. And paragraph 3 sets out the DNR's power to change the names of lakes.[7]

The majority ignores our obligation to give effect to all provisions in chapter 83A. Ignoring that judicial duty, the DNR argues (and the majority concludes) that the DNR has sweeping authority to change lake names under both paragraphs 1 and 3 of section 83A.02. I disagree.

A.

Paragraph 1 does not apply at all. Paragraph 1 gives the DNR the task of figuring out the generally accepted name of each lake in the state and recording that name. The DNR must figure out the names of the lakes in Minnesota. In doing so, the DNR must resolve inconsistencies when different names are used for the same lake or when the lake name is spelled in different ways. After resolving those differences, the DNR must publish the names in the State Register.

[7] Paragraphs 4 and 5 are additional ministerial duties. *See* Minn. Stat. § 83A.02(4)–(5). But because these paragraphs are not relevant to the analysis here, I do not discuss them further.

The last sentence in paragraph 1 confirms that this task is a record-keeping function. Paragraph 1 concludes with "[n]ame designations are exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply." The word "designation" is being used as a synonym for the word "determine" so the definition of "designate" should shed light on the meaning of "determine" in paragraph 1. The word "designate" means "[t]o call by a distinctive title, term, or expression." *Merriam-Webster's Collegiate Dictionary* 312 (10th ed. 2001). More specifically, Black's Law Dictionary defines "designate" as the act of "represent[ing] or refer[ring] to (something) using a particular . . . name . . . ." *Designate*, *Black's Law Dictionary* (11th ed. 2019). These definitions further support the conclusion that "determine"—as used in paragraph 1—is not a broad grant of name-changing power, but rather is the simple duty of identifying the names of Minnesota's lakes.

Exempting the duty in paragraph 1 from chapter 14 and section 14.386 reinforces that the Legislature intended this paragraph to be limited to the task of figuring out the names of Minnesota's lakes. This duty may include researching files in various counties or settling disputes about the spelling of the lake name—but it does not encompass simply re-naming lakes whenever the DNR feels like it. Indeed, giving an administrative agency the broad and unbridled authority that the majority vests in the DNR, through its interpretation of paragraph 1, is fundamentally at odds with our representative democracy. *See, e.g.*, *City of Arlington v. F.C.C.*, 569 U.S. 290, 315 (2013) (Roberts, C.J., dissenting) ("[T]he danger posed by the growing power of the administrative state cannot be dismissed."); *Free Enter. Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 499

(2010) (noting that the administrative state "now wields vast power and touches almost every aspect of daily life," which only "heightens the concern that [such power] may slip . . . . from . . . the people."). Plainly, such is not what the Legislature intended.

But, the majority contends, paragraph 1 gives the DNR the authority to "determine" lake names. The majority discusses the definition of "determine," and it concludes that its meaning must include "giving" and "changing" lake names. To support that conclusion, the majority cites the use of "determine" in other sections of chapter 83A. And, "[u]ndoubtedly, there is a natural presumption that identical words used in different parts of the same act are intended to have the same meaning," but this "presumption is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent." *Atl. Cleaners & Dyers, Inc. v. United States*, 286 U.S. 427, 433 (1932).

Here, it is strikingly clear that the meaning of the word "determine" in paragraph 1 cannot include "give" or "change." This is true because the DNR's authority to "give" lake names is set out in paragraph 2 and the DNR's authority relative to changing the names of lakes is set out in paragraph 3.[8]

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[8] If there were any ambiguity about the meaning of the word "determine," the legislative history would support my interpretation. In 2004, the Legislature amended section 83A.02(1) to exempt the Commissioner's designations from the Administrative Procedures Act: "determine the correct and most appropriate names of the lakes . . . 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*." Act of May 19, 2004, ch. 221, § 1, 2004 Minn. Laws. 611, 611 (codified as Minn.

Paragraph 3 expressly grants the DNR the power to "change." If "determine" in paragraph 1 also means "change," then paragraph 3 is rendered superfluous. *See Amaral*, 598 N.W.2d at 384. The majority makes no attempt to explain how its interpretation of paragraph 1 gives effect to the other paragraphs in the statute.

Moreover, if the majority is right that the meaning of "determine" includes "change," then we should be able to substitute the word "change" for the word "determine" in paragraph 1. But when we do so, the result is absurd: The commissioner of natural resources shall: (1) *change* the correct and most appropriate names of the lakes.[9] Simply

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Stat § 83A.02(1)) (emphasis added). The legislative materials that accompanied this bill through committee meetings help to clarify the meaning of the word "determine" in paragraph 1. The materials included a "Fact Sheet" (created by the DNR) to explain what an "exemption from rulemaking" meant. It read: "This bill would exempt the commissioner of natural resources from the rulemaking provisions of Chapter 14 for making *determinations* in the following areas: *designations*, natural resource activities, fees, and grants." Dep't of Nat. Res., *Exemption From Rulemaking*, H.F. 2433, 83rd Legis. Sess. (2004) (emphasis added). Also, the authors of the bill submitted a "bill summary" that specifically explained what exempting paragraph 1 meant: "DNR name *designations* of lakes, streams, places and other geographic features of the state are exempt from rulemaking, and must be done by written order in the State Register." Staff of Comm. on Env't & Nat. Res. Policy, *DNR Rule Exemption For Activities*, H.F. 2433, 83rd Legis. Sess. (2004) (emphasis added). In short, these materials show that both the DNR and the authors of the amendment viewed the word "determine" to mean "designate." And, as explained above, there is no doubt that the meaning of the word "designate" does not include "change."

[9] The majority also points to the use of the word "determine" in sections 83A.04, .06, .07. Whether the word "change" can reasonably replace the word "determine" in those sections varies. *Compare* Minn. Stat. §§ 83A.04, .06, *with* Minn. Stat. § 83A.07. That there are different outcomes further supports the conclusion that the Legislature used "determine" with a different intent in each section. *See Atl. Cleaners & Dryers, Inc.*, 286 U.S. at 433. Thus, the use of the word "determine" in other sections should not influence the conclusion about the meaning of "determine" here.

put, this reading makes no sense. For those reasons, the majority is wrong to conclude that the meaning of "determine" in paragraph 1 includes "change."

The majority's reading also effectively nullifies the Legislature's decision in section 83A.05 to give voters the power to initiate name changes and counties the power to change lake names. If the majority's interpretation is correct, there is no reason to go through the detailed, step-by-step process set out in the statute or seek input from local residents that sections 83A.05–.07 require. The majority's grant of total discretion to the DNR makes this process, and consequently, the desires of the local residents, completely irrelevant.[10] Reading sections 83A.05–.07 out of the statute is not within the judicial power.

Based on this analysis, it is clear that paragraph 1 does not give the DNR the authority to change the name of this lake or any other lake in Minnesota.

B.

Paragraph 3 does not give the DNR authority to do what it did here either. This paragraph reads: "in cooperation with the county boards and with their approval, [the DNR shall] change the names of lakes . . . with the end in view of eliminating, as far as possible, duplication of names within the state." Minn. Stat. § 83A.02(3).

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[10] The majority quotes from the DNR Order that the DNR thought that the name change "would 'serve the public interest.' " Neither the DNR nor the majority explain how that is the case. Moreover, because it is our duty to construe the evidence in the light most favorable to the petitioner, *Walsh*, 851 N.W.2d at 606, and because the petition cites "significant opposition to the name change," the DNR's unsubstantiated conclusion should bear no weight.

1.

From the plain language, the DNR can only change the name of a lake "in cooperation with the county boards and with their approval" and "with the end in view of eliminating, as far as possible, duplication of names within the state." *Id.* The plain language limits the DNR's power to change lake names only when the DNR desires to eliminate duplicate names. *Id.*

There is a passing reference in the DNR Order to the fact that there is at least one other lake in Minnesota named "Lake Calhoun." Giving the DNR the benefit of the doubt as to its motive and ignoring the factual record as to what really happened here, paragraph 3 could be relevant. But the DNR's authority under this paragraph is limited only to those name changes that can be done "with the[] approval" of the relevant county board. *Id.*

The majority defines "approval" to mean "[t]o give formal sanction to; to confirm authoritatively." *Approval*, *Black's Law Dictionary* (8th ed. 2004). Without analysis, the majority then concludes: "Here, there is no question that the county board formally approved the change in name from Lake Calhoun to Bde Maka Ska; indeed, it specifically requested and recommended it."

The majority's conclusion is flawed. It is a legal impossibility for this county board to formally or authoritatively approve of this name change; it cannot approve of the name change because the Legislature has explicitly withheld from the county board the legal authority to approve of a change to a lake name that has existed for 40 or more years. Minn. Stat. § 83A.05.

Moreover, the Legislature outlined only one process for county boards to change lake names—the process in sections 83A.05–.07. The fact that the Legislature did not outline any other process further confirms that the only way for the county board to give its approval is set out in those sections. To find some other process for how the county board can approve a name change, as the DNR desires, is mere conjecture. And to find that "approval" does not mean the process outlined in sections 83A.05–.07 effectively gives the DNR the power to define what "approval" does mean. Our precedent confirms that we cannot give the DNR such lawmaking power because lawmaking is not in the purview of an administrative agency. *Hassler v. Engberg*, 48 N.W.2d 343, 359–60 (Minn. 1951) ("Administrative officers may be clothed with power to exercise a discretion under a law, but not a discretion as to what the law shall be.").

Based on this plain-language interpretation of paragraph 3, the DNR had no power to change the name of Lake Calhoun.

2.

But the DNR argues that paragraph 3 can be interpreted as not incorporating the process outlined in sections 83A.05–.07. Even if there is an alternate reading that is reasonable and so paragraph 3 is ambiguous, the relevant canons of construction confirm that my interpretation is the interpretation that is most consistent with the legislative intent. *See* Minn. Stat. § 645.16 (2018) (outlining the factors to be considered "[w]hen the words of a law are not explicit," including legislative history, former laws on the same subject, and the consequences of the interpretation).

The legislative history, including the predecessor statutes to chapter 83A, confirms that the Legislature did not intend for the DNR to have authority to change lake names when those names are more than 40 years old.

After the Civil War, there was a surge in exploration and settlement in the western territories. *U.S. Bd. on Geographic Names,* Principles, Policies, and Procedures: Domestic Geographic Names 1 (2016) ("U.S. Bd. Principles"). As a result, "[i]nconsistencies and contradictions among many names, spellings, and applications became a serious problem to surveyors, map makers, and scientists." *U.S. Bd. on Geographic Names*, U.S. Geological Survey, https://www.usgs.gov/core-science-systems/ngp/board-on-geographic-names (last visited on Apr. 16, 2020). To standardize geographic names, President Benjamin Harrison, in 1890 and by executive order, created the United States Board on Geographic Names to adjudicate unsettled conflicts about the names of geographic features, including lake names. *See* U.S. Bd. Principles 1. In 1906, President Theodore Roosevelt, again by executive order, granted the U.S. Geographic Board authority to standardize (a) new names given to lakes and (b) any changes to lake names. *See id.* Prior to 1925, Minnesota did not have a process for resolving these disputes on its own, so the federal government was in charge of resolving disputes and standardizing (not regulating) proposed names and name changes to Minnesota geographic features. *See id; see also* Act of Apr. 8, 1925, ch. 157, 1925 Minn. Laws 146.

But, in 1925, the Minnesota Legislature enacted the first statute "providing for a method for changing the name of, or giving a name to, any lake . . . wholly within the boundaries of this state." Act of Apr. 8, 1925, ch. 157, 1925 Minn. Laws 146. And the

Legislature gave the power to give a name or change a name of a lake to local voters of the county that contained the lake through a petition process:

> That whenever it is desired to change the name of, or give a name to any unnamed lake, river, stream or body of water located within the boundaries of this state, any 15 or more legal voters, residing within the county where all or any part of such body of water is located, may petition the County Board of the County wherein said petitioners reside, to change the name of, or to give a name to any previously unnamed lake, river, stream or other body of water, however designated.

Act of Apr. 8, 1925, ch. 157, § 1, 1925 Minn. Laws 146 (codified as amended at Minn. Stat. § 83A.05, subd. 2(a)). This method did not provide for a way to change a lake name that had existed for 40 or more years: "no name of any lake, river, stream or other body of water, which name has existed for forty (40) years shall be changed under the provisions of this act." Act of Apr. 8, 1925, ch. 157, § 1, 1925 Minn. Laws 146 (codified as amended at Minn. Stat. § 83A.05, subd. 1). And it commanded that names should not duplicate other names:

> That in choosing and fixing the name of any . . . lake . . . the County Board or Boards shall, as far as possible not duplicate names of existing lakes . . . . [T]he State Commissioner of Drainage and Waters . . . shall compare the names suggested in said petition with the names of other lakes, rivers, streams and bodies of water within the state . . . .

Act of Apr. 8, 1925, ch. 157, § 5, 1925 Minn. Laws 146, 147–48 (codified as amended at Minn. Stat. § 83A.07).

In 1937, the Minnesota Legislature created the State Geographic Board and amended the 1925 law. The law creating the State Geographic Board contains the same language as sections 83A.015 to 83A.04 except for a few minor differences. *Compare* Act of Mar. 8, 1937, ch. 63, §§ 1–4, 1937 Minn. Laws 108, *with* Minn. Stat. §§ 83A.015,

83A.02-.04. And the powers and duties granted to the State Geographic Board are almost identical with the powers and duties given to the DNR in section 83A.02. *Compare* Act of Mar. 8, 1937, ch. 63, § 2, 1937 Minn. Laws 108 (codified as Minn. Stat. § 354.02 (1941)), *with* Minn. Stat. § 83A.02.

The 1937 legislation also amended the 1925 petition process, making the State Geographic Board subject to the petition process. Act of Feb. 24, 1937, ch. 35, 1937 Minn. Laws 68, 68–69 (codified as Minn. Stat. § 378.01 (1941)). It amended section 1 to read:

> That whenever it is desired to change the name of, or give a name to any unnamed lake . . . *the State Geographic Board or* any 15 or more legal voters, residing within the county where all or any part of such body of water is located, may petition the County Board of the County . . . .

*Id.* (alteration in original). The amendments therefore added the State Geographic Board as a petitioner. The 40-year limitation slightly changed as well: "No name of any lake, river, stream, or other body of water, which name has existed for 40 years, shall be changed under the provision of *sections 378.01 to 378.06*." Minn. Stat. § 378.01 (1941) (emphasis added).

Including the State Geographic Board as a party that could petition to change a lake name strongly suggests that the State Geographic Board was not created with stand-alone authority to change the names of lakes (other than in the situation where multiple lakes had the same name). If the Legislature intended to endow the State Geographic Board with broad authority to name and change the names of lakes in section 354.02 (now, section 83A.02), it would make no sense to subject the State Geographic Board to the petition process.

In 1969, the Legislature transferred the powers and duties vested in the State Geographic Board to the DNR Commissioner. Act of June 9, 1969, ch. 1129, art. 3, § 3, 1969 Minn. Laws 2312, 2339 (codified as Minn. Stat. § 83A.015 (2018)). At that time, the statute read: "When it is desired to change the name of, or give a name to, any unnamed lake, river, stream, or body of water located within the boundaries of this state, *the commissioner of natural resources*, or any 15 or more legal voters . . . ." Minn. Stat. § 378.01 (1971) (emphasis added). Again, the petition process explicitly includes the Commissioner.

The final amendments occurred in 1990. The 1990 amendments governed the "recodifying, clarifying, and relocating provisions relating to water law," totaling 400 pages. Act of Apr. 6, 1990, ch. 391, art. 1, 1990 Minn. Laws 354. Relevant here, the 1990 amendments relocated Minn. Stat. §§ 378.01–.06 (1971) (the statutory scheme governing changing and naming water bodies) to chapter 83A, creating §§ 83A.05–.07. Act of Apr. 6, 1990, ch. 391, art. 8, §§ 7–9, 1990 Minn. Laws 354, 693–95. This relocation put chapter 83A in its current form.

There is one relevant change that occurred in the 1990 amendments. Section 83A.05, subdivision 2, removed "the commissioner of natural resources" as a person who can petition the county boards to change or give a name to a water body. Act of Apr. 6, 1990, ch. 391, art. 8, § 7, 1990 Minn. Laws 354, 693 (codified as Minn. Stat. § 83A.05, subd. 2)). It now reads:

> Subd. 2. Petition for name. (a) Fifteen or more legal voters residing in a county where all or a part of a body of water is located may petition the county board of the county where the petitioners reside or the body of water

> is located to change the name of or give a name to a previously unnamed lake, river, stream, or other body of water located within the state.

Minn. Stat. § 83A.05, subd. 2. There is no discussion about why the Legislature removed "[t]he commissioner of natural resources" as a petitioner.

But importantly, the 1990 bill concluded with article 10, which stated:

> The legislature intends this act to be a clarification and reorganization of provisions of laws affecting water. The changes that have been made are not intended to alter the laws affecting water and shall not be construed by a court or other authority, to alter the meaning of the law. It is intended that decisions construing laws that are recodified by articles 1 to 10 are not affected by the recodification.

Act of Apr. 6, 1990, ch. 391, art. 10, § 1, 1990 Minn. Laws 354, 750. Consistent with this direction, the Legislature's decision to remove the Commissioner from the petition process cannot be read as giving the DNR substantive authority he did not previously have. Just as before the 1990 amendments, so too after them: the DNR is effectively bound by the petition process under section 83A.02, paragraph 3, because the DNR has to act "in cooperation with the county boards and with their approval." And county boards cannot approve a name change without going through the petition process.

In sum, the legislative history and former laws on the subject confirm that the better interpretation of the phrase, "in cooperation with the county boards and with their approval," in paragraph 3 means the county board petition process in sections 83A.05–.07.[11]

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[11] The majority relies on a 1940 attorney general opinion to conclude otherwise. But such reliance is misplaced. *See Star Tribune Co. v. Univ. of Minn. Bd. of Regents*, 683 N.W.2d 274, 289 (Minn. 2004) (noting that "[o]pinions of the Attorney General are

The consequences of each interpretation confirm this as well. Under the DNR's interpretation, it can effectively change the name of any lake in Minnesota at any time with essentially no role for those most impacted by the change—the people who live on or near the lake. The majority concedes that its interpretation elevates the DNR's naming decision above "the permanent, best interests of the affected county." The Legislature made its intent clear, however, that those most directly impacted by the name change should be the ones with the power to initiate the change.[12] *See* Minn. Stat. §§ 83A.05–.07.

My interpretation is consistent with this intent and preserves the right of local residents and communities to play a meaningful role in lake-name changes. My interpretation also gives effect to the stability the Legislature sought through the 40 year

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not binding on the courts" and that "the conclusory approach of this letter opinion renders it less than persuasive").

[12] The majority states, "The Commissioner *can* consider the best interests of the entire state." (Emphasis added.) Of course, under the majority's interpretation that allows the DNR to change lake names on a whim, the DNR *can* consider whatever it wants. But nothing *requires* the DNR to consider the best interest of the entire state. And the statute the majority cites has nothing to do with acting in the best interest of the state, it merely provides: "Pursuant to applicable federal and state law under which Minnesota was admitted to the union on equal footing with the original 13 states, navigable waters and their beds located within the exterior boundaries of the state are owned by the state." Minn. Stat. § 1.0451, subd. 1 (2018). Nowhere in that statute is the DNR required to act in "the best interests of the entire state." Rather, the majority, in this opinion, rubber stamps a rule of law that permits the DNR to change the name of a lake for any reason whether in the best interest of the state or not. To be clear, as stated above, the Legislature decided to give the power to change the name of a lake to the people when it provided that "[f]ifteen or more legal voters residing in a county where all or a part of a body of water is located may petition the county board of the county where the petitioners reside or the body of water is located to change the name of or give a name to a previously unnamed lake, river, stream, or other body of water located within the state." Minn. Stat. § 83A.05, subd. 2(a). It is people in the *county* with the body of water who can petition; thus the Legislature did explicitly state that people who live near the lake should have a greater say in its name.

time limit expressed in section 83A.05. Minn. Stat. § 83A.05, subd. 1. It makes sense that the Legislature intended that lakes that have held the same name for more than 40 years would continue to be so named. Changing the names of all of our 10,000-plus lakes every time the political winds blow a certain direction undermines stability that residents and communities need. *See generally* U.S. Board Principles, *supra* at 11 (2016) (explaining that the names of geographic features, like lakes, serve an important function that "requires a high degree of stability"). And if in fact the name of a lake is as pernicious as the name at issue here is argued to be, the Legislature can provide a remedy, as the majority notes it has with other lake names. *See* Minn. Const. art. XII, § 1.

For all of these reasons, the most reasonable interpretation of the approval provision in paragraph 3 is that it incorporates the approval process set out in sections 83A.05–.07. Following this analysis, I would affirm the court of appeals.

III.

The majority declares: "the body of water that was Lake Calhoun is now Bde Maka Ska." This court has no more authority to change the name of the lake than the DNR. Because the majority's opinion is contrary to legislative intent and settled precedent, I dissent.

ANDERSON, Justice (dissenting).

I join in the dissent of Chief Justice Gildea.