

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1697**

State of Minnesota, by Spring Valley Friends, LLC, et al.,
Appellants,

vs.

Riley Purgatory Bluff Creek Watershed District,
Respondent,

Pulte Homes of Minnesota, LLC,
Respondent.

**Filed July 31, 2023
Affirmed
Cochran, Judge**

Hennepin County District Court
File No. 27-CV-21-11618

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Homes of Minnesota, LLC)

Considered and decided by Cochran, Presiding Judge; Worke, Judge; and
Wheelock, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant, a non-profit citizens group, challenges the district court's dismissal of its appeal pursuant to Minn. Stat. § 103D.537(a) (2022) of a permit decision made by respondent-watershed district. Because appellant did not perfect its appeal within the statutory time period, we affirm.

FACTS

This case involves a decision by respondent Riley Purgatory Bluff Creek Watershed District (the watershed district) to grant a permit for a new residential development in Eden Prairie and the subsequent filing of an appeal by appellant Spring Valley Friends in district court.¹ The following facts are undisputed.

Respondent Pulte Homes of Minnesota LLC applied to the watershed district for approval of an erosion-prevention and sediment-control permit and a stormwater-management plan in connection with a development project (the permit).² In June 2021, the board of managers of the watershed district held a regular meeting where it considered Pulte Homes' application. The board heard from several people at the meeting, including a member of Spring Valley Friends. Spring Valley Friends, a non-profit limited liability company, and its members "use, enjoy, and benefit from" the natural resources in

¹ Because Spring Valley Friends LLC brought this action individually and on behalf of the State of Minnesota, we refer to both parties together as Spring Valley Friends.

² The record reflects that the permit at issue has since been transferred and is no longer held by Pulte Homes. Pulte Homes has not participated in this appeal.

the city of Eden Prairie. The board determined that it lacked sufficient information to decide on the application at the June meeting.

On August 4, the board convened for another regular meeting. At least one member of Spring Valley Friends was present. During the public input portion of the meeting, an engineering professor submitted a presentation and recommended a more thorough slope-stability analysis of the proposed project for consideration by the board. The board also heard from staff, including its engineering consultant, and the matter was continued. On August 12, the board met again, and the managers voted to approve the permit. The vote was taken by a voice, roll-call vote. A member of Spring Valley Friends was present at the meeting. On September 1, the board approved the minutes of the August 12 meeting.

Spring Valley Friends decided to appeal the August 12 permit decision to the district court pursuant to Minn. Stat. § 103D.537(a). On September 10, 2021, Spring Valley Friends served its complaint on the watershed district. On September 23, Spring Valley Friends filed its complaint in district court.

The watershed district moved to dismiss the appeal for lack of subject-matter jurisdiction on the basis that Spring Valley Friends' appeal was not filed within the 30-day statutory appeal period. The district court agreed. The district court dismissed the appeal with prejudice for lack of subject-matter jurisdiction, concluding that the appeal was not timely filed because it was filed more than 30 days after the August 12 vote granting the permit.³

³ Spring Valley Friends also brought claims under the Minnesota Environmental Rights Act (MERA), Minn. Stat. §§ 116B.01-.13 (2022). We cite the most recent version of

This appeal follows.

DECISION

Spring Valley Friends challenges the district court's dismissal of its appeal brought pursuant to section 103D.537(a) for lack of subject-matter jurisdiction, arguing that it timely filed its appeal in district court.

A district court properly dismisses an action when the district court lacks jurisdiction over the subject matter. Minn. R. Civ. P. 12.08(c). "Time limits on appeals are jurisdictional and untimely appeals must be dismissed." *In re Establishment of Cnty. Ditch No. 11 (Bevens Creek)*, 511 N.W.2d 54, 57 (Minn. App. 1994), *rev. denied* (Minn. Mar. 31, 1994); *see also In re Skyline Materials, Ltd.*, 835 N.W.2d 472, 477 (Minn. 2013) (holding that the district court lacked jurisdiction over an appeal to the district court regarding a county's variance decision that was not initiated within the 30-day statutory period). "Subject-matter jurisdiction is a question of law that we review de novo." *Daniel v. City of Minneapolis*, 923 N.W.2d 637, 644 (Minn. 2019).

MERA because it has not been amended in relevant part. *See Interstate Power Co. v. Nobles Cnty. Bd. of Comm'rs*, 617 N.W.2d 566, 575 (Minn. 2000) (stating that, generally, "appellate courts apply the law as it exists at the time they rule on a case"). The district court dismissed the MERA claims *without* prejudice. Spring Valley Friends appealed the dismissal of those claims to this court along with the dismissal of its section 103D.537(a) claim. We dismissed Spring Valley Friends' appeal with respect to the MERA claims because Spring Valley Friends is not precluded from re-filing and re-serving a summons and complaint and an immediate appeal is not necessary.

Spring Valley Friends’ appeal of the watershed district’s permit decision is governed by Minnesota Statutes section 103D.537(a). The statute provides, in relevant part:

Except as provided in section 103D.535, an interested party may appeal a permit decision or order made by the managers by a declaratory judgment action brought under chapter 555. . . . The decision on appeal must be based on the record made in the proceeding before the managers. An appeal of a permit decision or order *must be filed within 30 days of the managers’ decision*.

Minn. Stat. § 103D.537(a) (emphasis added).

The parties agree that the statute unambiguously requires Spring Valley Friends to file its appeal “within 30 days of the managers’ decision” for the district court to have subject-matter jurisdiction over the appeal. *Id.* But the parties disagree as to when the managers made their “decision” for purposes of commencing the appeal period. The watershed district asserts that the district court correctly concluded that the managers made their “decision” on the permit on August 12 when they voted at the board meeting to grant the permit. Spring Valley Friends does not dispute that the managers decided to approve the permit by a voice vote on August 12, but argues that the “decision” was not final for purposes of section 103D.537 until the decision was reduced to writing. On this basis, Spring Valley Friends argues that the managers’ decision was not made until September 1 when the board of managers approved the meeting minutes of the August 12 meeting. The determination of when the managers made their “decision” is important because Spring Valley Friends did not file its appeal in district court until September 23. Thus, if the “decision” occurred on August 12, at the time of the voice vote, Spring Valley Friends’

appeal was not timely under section 103D.537 because the appeal was filed more than 30 days after the decision. But, if the “decision” occurred on September 1, Spring Valley Friends’ appeal was timely.

The Plain Language of Section 103D.537(a)

To resolve this question, we must interpret the term “decision” as used in section 103D.537(a). “Statutory interpretation is a question of law that we review de novo.” *Engfer v. Gen. Dynamics Advanced Info. Sys., Inc.*, 869 N.W.2d 295, 300 (Minn. 2015). We aim to “ascertain and effectuate the intent of the legislature,” “give words and phrases their plain and ordinary meaning,” and “read the statute as a whole.” *Id.* The first step in statutory interpretation is to determine whether the statutory language is ambiguous. *Id.* A statute “is ambiguous only if, as applied to the facts of the particular case, it is susceptible to more than one reasonable interpretation.” *Id.* If the statutory language is unambiguous, we apply the plain meaning and do “not explore the spirit or purpose of the law.” *Id.*

We begin our analysis by noting that the term “decision,” as used in section 103D.537(a), is not defined. In the absence of statutory definitions, “[w]e may consider dictionary definitions to determine the [plain and ordinary] meaning of a statutory term.” *In re Krogstad*, 958 N.W.2d 331, 334 (Minn. 2021) (quotation omitted). The specific “meaning of a word depends on how it is being used in context.” *Barrow v. State*, 862 N.W.2d 686, 691 (Minn. 2015) (quotation omitted).

Dictionaries of common use, as well as legal dictionaries, define “decision” in a similar manner. For example, the American Heritage Dictionary defines “decision” as “[t]he act of reaching a conclusion or of passing of judgment on an issue under

consideration.” *The American Heritage Dictionary of the English Language* 470 (5th ed. 2018). Similarly, Black’s Law Dictionary defines the term “decision” as “[a] judicial or agency determination after consideration of the facts and the law.” *Black’s Law Dictionary* 511 (11th ed. 2019). Instructively, these definitions reflect that a “decision” is the act of reaching a conclusion or determination. But neither definition of “decision” requires that the conclusion or determination be in writing to constitute a “decision.” Rather, a “decision” is the “act of reaching a conclusion” or making a “determination.”

With this definition in mind, we consider the meaning of the term as used in the context of section 103D.537(a). The statute provides that an appeal of a permit decision “must be filed within 30 days of the managers’ decision.” Minn. Stat. § 103D.537(a). Applying the dictionary definition of “decision” to the phrase “filed within 30 days of the managers’ decision,” we conclude that the appeal must be filed within 30 days of when the managers reach a conclusion or make a determination about a permit application. Significantly, there is no language in section 103D.537(a) requiring that the “managers’ decision” be in writing. *Id.* Rather, the appeal provision simply refers to “the managers’ decision” as starting the 30-day appeal period.

To read the statute to require a written decision to start the appeal period, as requested by Spring Valley Friends, would add language to the statute. It is well established that “[w]e cannot add words to a statute that the legislature has either purposely omitted or inadvertently overlooked.” *In re V&J Farm, LLC*, 974 N.W.2d 582, 589 (Minn. App. 2022) (quotation omitted). Accordingly, we decline to do so. Therefore, we conclude

that the appeal period set forth in section 103D.537(a) commences when the managers make a permit decision, whether by voice vote or in writing.

In arguing otherwise, Spring Valley Friends contends that section 103D.537(a), when read as a whole, *implies* that a written decision is required to trigger the 30-day appeal period. To support this argument, Spring Valley Friends focuses on the second to last sentence in section 103D.537(a). That sentence governs the district court’s review on appeal, not the appeal period. The sentence states: “The decision on appeal must be based on the record made in the proceeding before the managers.” Minn. Stat. § 103D.537(a). Spring Valley Friends argues that when this sentence is read in conjunction with the last sentence regarding the appeal period, which provides that “[a]n appeal of a permit decision . . . must be filed within 30 days of the managers’ decision,” the two sentences together suggest that a written decision is required to trigger the appeal period. *Id.* (emphasis added). It contends that this reading is logical because the record on appeal necessarily includes minutes of board meetings. We are not persuaded.

The language of section 103D.537(a), read as a whole, provides that the appeal period is dependent only on the “managers’ decision” and is independent of the language in the preceding sentence relied on by Spring Valley Friends. When interpreting a statute, we “examine the text and structure of the statute.” *Minn. Voters All. v. County of Ramsey*, 971 N.W.2d 269, 275 (Minn. 2022). An examination of the text reveals that these two sentences address different topics. One mandates that the district court’s decision on the appeal must be based on the record before the watershed district, and the other mandates that an appeal to district court must be filed within 30 days of the managers’ decision. *See*

Minn. Stat. § 103D.537(a); *see also* Minn. Stat. § 103D.011, subd. 15 (2022) (defining “managers” as “the board of managers of a watershed district”). The fact that these two mandates use different language—“decision on appeal” and “permit decision”—and appear in separate sentences shows that they are distinct from one another. *Cf. Minn. Voters All.*, 971 N.W.2d at 275-77 (stating that a requirement set forth in one sentence did not apply to an expressly distinct idea set forth in the following sentence of the same statutory subdivision). Furthermore, we have previously interpreted the language in the second to last sentence as a limitation on the scope of review by the district court on appeal, not a condition for the time to appeal. *See Goerke Fam. P’ship v. Lac Qui Parle-Yellow Bank Watershed Dist.*, 857 N.W.2d 50, 52-54 (Minn. App. 2014) (reasoning that the statutory language in the second to last sentence means that “the district court is limited on appeal to review of the record made before the board of managers”). For these reasons, we reject Spring Valley Friends’ argument that section 103D.537(a) requires a written decision to start the appeal period.

This conclusion is reinforced by the language used in other statutory provisions involving governmental decisions and appeals of those decisions. For example, the legislature has required that “[e]very order, finding, authorization, or certificate issued or approved by the [Minnesota Public Utilities Commission] under this chapter must be in writing, ” and an appeal is taken from the written decision document. Minn. Stat. § 216B.33 (2022); Minn. Stat. § 216B.52, subd. 1 (2022). Similarly, appeal timing requirements in other statutes turn on a written document. *See, e.g.,* Minn. Stat. § 103E.095, subd. 1 (2022) (requiring an appellant to serve notice of an appeal of an

order dismissing drainage proceedings or establishing, or refusing to establish, a drainage project “within 30 days after the order is filed”). By contrast, here, there is no statutory requirement for the watershed district to issue a written decision on a permit application. *See generally* Minn. Stat. §§ 103D.001-.925 (2022). Nor is there any language in section 103D.537(a) providing that the appeal period starts upon “filing” of the decision. If the legislature had intended to condition the appeal period in section 103D.537(a) on a written decision document, it would have included language requiring or referencing a written decision document. *See In re Hubbard*, 778 N.W.2d 313, 323-24 (Minn. 2010) (reasoning that the grant of certain authority in statutes other than the one at issue showed that the legislature knew how to grant that authority but declined to do so in the statute at issue on appeal). But the legislature refrained from doing so. We will not read a requirement for a written decision into section 103D.537(a) where none exists. *See V&J Farm*, 974 N.W.2d at 589.

Spring Valley Friends presents two other arguments to persuade us that we should nevertheless interpret the term “decision,” as used in section 103D.537(a), to mean a written decision. We address each argument in turn, but we find neither argument convincing.

Minnesota Administrative Procedures Act (MAPA)

First, Spring Valley Friends argues that a written decision document is required to start the appeal period because the watershed district’s permit decision was made as part of a “contested case” under MAPA. As Spring Valley Friends notes, orders in contested cases conducted pursuant to MAPA must be written. Minn. Stat. § 14.62, subd. 1 (2022)

(“Every decision and order rendered by an agency in a contested case shall be in writing, shall be based on the record and shall include the agency’s findings of fact and conclusions on all material issues.”). But the watershed district’s permit decision was not a decision in a contested case. A contested case under MAPA is a proceeding initiated by “[a]n agency . . . when one is required by law.” Minn. Stat. § 14.57 (2022). The term “agency” does not include a watershed district; it is limited to governmental entities with statewide jurisdiction. *Compare* Minn. Stat. § 14.02, subd. 2 (2022) (defining “agency” as “any state officer, board, commission, bureau, division, department, or tribunal . . . , having a *statewide* jurisdiction and authorized . . . to adjudicate contested cases” (emphasis added)), *with* Minn. Stat. § 103D.225, subds. 2, 6 (providing for the establishment of watershed districts and that a watershed district is “a political subdivision of the state”).

Nor does any other statutory provision in chapter 103D require a watershed district to make a permit decision in accordance with MAPA or incorporate by reference the requirements of section 14.62 with respect to watershed districts. *See generally* Minn. Stat. §§ 103D.001-.925; *cf. In re Midway Pro Bowl Relocation Benefits Claim*, 930 N.W.2d 7, 10-11 (Minn. App. 2019) (applying MAPA to a city even though a city is not a statewide agency because the claim was based on a statute that expressly incorporated MAPA), *aff’d* (Minn. Jan. 15, 2020). In short, because the watershed district is not an “agency” subject to MAPA and section 103D.537(a) does not incorporate MAPA by reference, MAPA’s requirement for a written order is inapplicable to the managers’ decision at issue in this case.

Due Process

Second, Spring Valley Friends asserts that a reading of section 103D.537(a) that does not require written notice of the decision would run contrary to constitutional due process requirements.⁴ *See* Minn. Stat. § 645.17(3) (2022) (stating that, in determining legislative intent, courts should presume that “the legislature does not intend to violate the Constitution of the United States or [Minnesota]”). The due process clauses of the United States and Minnesota Constitutions prohibit the state from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. amend. V; Minn. Const. art. I, § 7; *cf. Barton Contracting Co. v. City of Afton*, 268 N.W.2d 712, 715-17 (Minn. 1978) (analyzing whether a corporate entity’s procedural due process rights were violated). “Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests” protected by the United States and Minnesota Constitutions. *Obara v. Minn. Dep’t of Health*, 758 N.W.2d 873, 877 (Minn. App. 2008) (quotation omitted). “To determine whether an individual’s right to procedural due process has been violated, a reviewing court first determines whether a protected liberty or property interest is implicated and then determines what minimum procedures must be afforded by applying a balancing test.” *Id.* at 877-78.

We begin by considering whether Spring Valley Friends has a protected liberty or property interest that is implicated by the district court’s dismissal of its appeal. At oral

⁴ We note that Spring Valley Friends does not assert that section 103D.537(a) is unconstitutional in its briefing, and instead seems to suggest that requiring written notice of the decision to start the appeal period would be aligned with due process and policy considerations.

argument, Spring Valley Friends asserted that the statutory right to appeal a permit decision under section 103D.537(a) creates a protected interest under the due process clause. Spring Valley Friends relies on *Schulte v. Transportation Unlimited, Inc.*, 354 N.W.2d 830 (Minn. 1984) in support of the proposition that the right to appeal is a protected interest. In *Schulte*, the Minnesota Supreme Court held that a notice of appeal of an employment benefits determination violated due process because the notice failed to inform the employee that, if the determination of eligibility were reversed, the employee would be liable for benefits paid and would face a charge against their right to collect any future benefits. 354 N.W.2d at 832-35. In reaching this conclusion, the supreme court identified the constitutionally protected interest as the employee’s interest in unemployment benefits, *not* the statutory right to appeal an unemployment-benefits determination. *See id.* at 832 (determining that due process applied because “[u]nemployment benefits are an entitlement protected by the procedural due process requirements of the fourteenth amendment”). And Spring Valley Friends cites no other binding legal authority, and we are aware of none, establishing that a statutory right to appeal creates a constitutionally protected liberty or property interest.⁵

Spring Valley Friends also points to a series of cases interpreting the appeal period under Minn. Stat. § 394.27, subd. 9 (2022), to argue that due process and policy considerations support reading section 103D.537(a) to require written notice of the “managers’ decision” to start the appeal period. *See In re Saldana*, 444 N.W.2d 892,

⁵ We note that we only address whether Spring Valley Friends possesses the protected interest it identified—a right to appeal. We do not address whether Spring Valley Friends may have possessed other protected interests for purposes of procedural due process.

893-94 (Minn. App. 1989) (reasoning that the statutory language “appeal within 30 days, after receipt of notice of the decision” implicitly required that notice of the decision be written (emphasis added)); *Graham v. Itasca Cnty. Plan. Comm’n*, 601 N.W.2d 461, 464-65 (Minn. App. 1999) (reaffirming *Saldana*); *Hecker v. Crow Wing Cnty. Bd.*, 959 N.W.2d 215, 220-21 (Minn. App. 2021) (interpreting “notice of the decision” to require a “final, written decision document” based on *Saldana* and *Graham*). But the reasoning in these cases is based on the specific language of section 394.27, subdivision 9, as well as the fact that the county was otherwise statutorily required to prepare and file a written decision. See *Saldana*, 444 N.W.2d at 893; *Graham*, 601 N.W.2d at 464-65; *Hecker*, 959 N.W.2d at 219; see also Minn. Stat. § 394.27, subd. 9 (“[A]ny aggrieved person . . . shall have the right to appeal within 30 days, after receipt of notice of the decision.” (emphasis added)). Importantly, the statutory language at issue in section 394.27, subdivision 9, is different from the language in section 103D.537(a). As discussed above, section 103D.537(a) provides that an appeal “must be filed within 30 days of the managers’ decision.” Unlike section 394.27, subdivision 9, the appeal period set forth in section 103D.537(a) is not dependent on “notice” of the decision. Moreover, there is no independent statutory requirement that the watershed district prepare and file a written decision document, like there was for the decisions at issue in *Saldana* and its progeny. See *Saldana*, 444 N.W.2d at 893; *Graham*, 601 N.W.2d at 464-65. Accordingly, we decline to read section 103D.537(a) as implicitly requiring written notice of the managers’ decision. See *Hubbard*, 778 N.W.2d at 323-24; *V&J Farm*, 974 N.W.2d at 589.

Conclusion

In sum, we conclude that the language of section 103D.537(a) setting forth the appeal period for a permit decision is unambiguous. The statute plainly provides that “[a]n appeal of a permit decision . . . must be filed within 30 days of the managers’ decision.” Minn. Stat. § 103D.537(a). The provision applies even when the decision is made by a voice vote. There is no language in section 103D.537(a) that requires a written decision document to start the appeal period.

Applying the plain language of section 103D.537(a) to the undisputed facts in this case, we further conclude that Spring Valley Friends’ appeal to the district court was untimely. The managers made their decision to issue the permit by a roll-call vote on August 12, but Spring Valley Friends did not file its appeal until September 23—more than 30 days after the managers’ decision. Because Spring Valley Friends did not file its appeal “within 30 days of the managers’ decision,” as required by section 103D.537(a), the district court lacked subject-matter jurisdiction to hear the appeal and properly dismissed the appeal with prejudice.

Affirmed.