IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-1047

Filed 5 December 2023

New Hanover County, No. 22 CVS 443

ENVIRONMENTAL JUSTICE COMMUNITY ACTION NETWORK, and CAPE FEAR RIVER WATCH, Petitioners,

v.

NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY, DIVISION OF WATER RESOURCES, Respondent,

v.

MURPHY-BROWN, LLC, Respondent-Intervenor.

Appeal by Petitioners from order entered 18 August 2022 by Judge George F. Jones in New Hanover County Superior Court. Heard in the Court of Appeals 6 June 2023.

Southern Environmental Law Center, by Nicholas S. Torrey, Blakely Hildebrand, Maia Hutt, and Jasmine Washington, for Petitioners-Appellants.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Asher P. Spiller and Assistant Attorneys General Taylor H. Crabtree and Ashton H. Roberts, for Respondent-Appellee.

McGuireWoods LLP, by Henry L. Kitchin, Jr., Jonathan Y. Ellis, and W. Dixon Snukals, and Hunton Andrews Kurth LLP, by Harry M. Johnson, III, pro hac vice, for Respondent-Intervenor-Appellee.

Calhoun, Bhella & Sechrest, LLP, by James L. Conner, II, and Shannon M. Arata, for Environmental Defense Fund, amicus curiae.

GRIFFIN, Judge.

Petitioners The Environmental Justice Community Action Network and Cape Fear River Watch appeal from the Superior Court's order affirming the Final Decision of the Chief Administrative Law Judge and granting summary judgment against Petitioners' challenge to permits authorized by Respondent North Carolina Department of Environmental Quality, Division of Water Resources ("DEQ"). Respondent-Intervenor Murphy-Brown, LLC ("Murphy-Brown"), applied for permits from DEQ to adopt new systems of hog waste management at each of four farms it owns and operates in Duplin and Sampson counties. Petitioners request that this Court reverse the Superior Court's order and enter summary judgment in Petitioners' favor, because the evidence showed DEQ failed to consider whether (1) Murphy-Brown's proposed systems were the least adverse system available and (2) the cumulative effects of the proposed systems were reasonable under Article 21, Part 1 of Chapter 143 of the North Carolina Rules of Civil Procedure.

In recognition of the importance of animal operations to the economy of this State and the inherent tension in maintaining those operations against our need for environmental safeties, our legislature has designed an alternate permitting process for animal waste management systems. This alternate process seeks to reduce the

administrative burden of those permitting decisions while protecting the air and water resources of this State from undue pollution.

DEQ did not err in declining to consider the requirements asserted by Petitioners, because the permits requested in this case fell within the alternate permitting process described in Part 1A of Article 21, not Part 1. We hold Petitioners' appeal is appropriately before this Court and affirm the Superior Court's order.

I. Factual and Procedural History

Murphy-Brown owns and operates a system of industrial hog farms in North Carolina, including four farms pertinent to this case: the Benson Farm, the Goodson Farm, the Waters Farm, and the Kilpatrick Farm ("the Farms"). In December 2019, Murphy-Brown submitted permit applications to DEQ requesting authorization to install "New Swine Digester Animal Waste Management System[s]" at each of the Farms. **{Doc Ex 364-69}.** In March 2021, DEQ authorized Murphy-Brown to install its new waste management systems at each of the Farms via (1) three individual permits for the Benson, Goodson, and Waters Farms; and (2) a certificate of coverage stating the Kilpatrick Farm was already authorized under its existing general permit (collectively, the "Permits").

The Permits, under the authority of the 2021 text of "Article 21 of Chapter 143" of the North Carolina General Statutes, authorized each of the Farms to "construct[] and operat[e] [] an anaerobic digestion animal waste treatment system to produce renewable energy." Prior to the Permits' grant, the Farms had practiced a waste

management system of sluicing treated animal waste into open-air lagoons, then spraying the wastewater onto fields as fertilizer for nearly twenty years. The addition of anaerobic digestion systems covering portions of the lagoons would allow the Farms to capture methane and other biogases produced during the waste disposal process for further use as an energy source. Following the anaerobic digestion process, remaining liquid waste would then be stored in open-air lagoons and sprayed onto fields as fertilizer. The Permits expressly forbade the Farms from increasing the quantity of stocked animals or volume of waste flow at each location without prior approval and instituted several additional compliance obligations.

Petitioners are non-profit organizations whose members reside near the Farms. On 29 April 2021, Petitioners submitted four petitions to the Office of Administrative Hearings challenging DEQ's approval of the Permits, contending the Permits would lead to increased levels of pollution from the Farms and adversely impact the water bodies the members rely upon. The cases were consolidated for review.

On 9 September 2021, the Chief Administrative Law Judge reassigned the consolidated matter to himself. On 22 October 2021, Petitioners and Murphy-Brown filed motions for summary judgment. On 11 January 2022, the Chief ALJ issued a Final Decision which (1) denied Petitioners' motion for summary judgment; (2) declined to address Murphy-Brown's motion challenging Petitioners' legal standing; and (3) granted summary judgment to DEQ and Murphy-Brown against Petitioners'

claims. In reaching his decisions, the Chief ALJ reasoned that "[i]f the General Assembly intended for section 143-215.1(b)(2) to apply to all animal waste management system permits, there would have been no need to specify that permits could be issued in under Part 1 *or* Part 1A of Article 21 of Chapter 143."

On 8 February 2022, Petitioners filed a petition for judicial review of the Chief ALJ's final decision in New Hanover County Superior Court. On 18 August 2022, the Superior Court entered an order affirming the Chief ALJ's final decision, by (1) denying Petitioners' motion for summary judgment; (2) denying challenges to Petitioners' standing; and (3) granting summary judgment to DEQ and Murphy-Brown against Petitioners' claims. Petitioners timely appeal to this Court.

II. Analysis

Petitioners argue the Superior Court erred in affirming the Chief ALJ's final decision because, by issuing the Permits, DEQ violated its duties that (1) "[a]ll permit decisions shall require that the practicable waste treatment and disposal alternative with the least adverse impact on the environment be utilized" and (2) to "act on all permits so as to prevent violation of water quality standards due to the cumulative effects of permit decisions," each found in section 143-215.1(b)(2) of the North Carolina General Statutes.

A. Jurisdiction

Before we reach Petitioners' arguments, we must address two issues of jurisdiction in this case: mootness and standing.

1. Mootness

In 2021, DEQ granted new general permits for the Goodson, Waters, and Kilpatrick Farms which authorize those Farms to continue construction and operation of anaerobic digesters, superseding the Permits at issue here with respect to those three Farms.[1] Nonetheless, this Court's review is not moot because the Permit for the Benson Farm is still in effect.

Our Courts may only intervene where a "genuine controversy presently exists between the parties." *Granville Cnty. Bd. of Com'rs v. N.C. Hazardous Waste Mgmnt Com'n,* 329 N.C. 615, 625, 407 S.E.2d 785, 791 (1991) (citation and internal marks omitted). "If the issues before a court . . . become moot at any time during the course of the proceedings, the usual response should be to dismiss the action." *Dunhill Holdings, LLC v. Lindberg*, 282 N.C. App. 36, 97, 870 S.E.2d 636, 678 (2022) (citations omitted). "A case is considered moot when 'a determination is sought on a matter which, when rendered, cannot have any practical effect on the existing controversy.'" *Lange v. Lange*, 357 N.C. 645, 647, 588 S.E.2d 877, 879 (2003) (citation omitted).

The Permit authorizing the Benson Farm to construct and operate anaerobic digesters remains in effect at this time. Thus, this Court's review of and holding regarding the relevant substantive law will have a practical effect on an existing

[1] Petitioners have filed separate challenges to the new, general permits' authorization regarding these three Farms. Those challenges are currently pending before the Office of Administrative Hearings.

controversy.

2. Standing

The Chief ALJ declined to resolve Murphy-Brown's motion for summary judgment with respect to the issue of Petitioners' standing to bring their claims. The Superior Court explicitly denied the motion. Murphy-Brown repeats this argument on appeal.

"Standing is a necessary prerequisite to a court's proper exercise of subject matter jurisdiction." *Aubin v. Susi*, 149 N.C. App. 320, 324, 560 S.E.2d 875, 878 (2002) (citations omitted). "Whether a party has standing is a question of law which we review de novo[.]" *McCrann v. Pinehurst, LLC*, 225 N.C. App. 368, 372, 737 S.E.2d 771, 775 (2013) (citation omitted). Where the right to bring a claim is statutorily granted, "the relevant questions are only whether the plaintiff has shown a relevant statute confers a cause of action and whether the plaintiff satisfies the requirements to bring a claim under the statute." *Comm. to Elect Dan Forest v. Emps. Pol. Action Comm.*, 376 N.C. 558, 599, 853 S.E.2d 698, 727 (2021). "[W]hen the legislature exercises its power to create a cause of action under a statute, even where a plaintiff has no factual injury and the action is solely in the public interest, the plaintiff has standing to vindicate the legal right so long as he is in the class of persons on whom the statute confers a cause of action." *Id.* at 608, 853 S.E.2d at 733.

Under the North Carolina Administrative Procedures Act (the "APA"), any "person aggrieved" may challenge a state government agency's discretionary decision

where that decision "substantially prejudiced" the person for one of several enumerated reasons. N.C. Gen. Stat. § 150B-23(a)(3) (2021); *accord* N.C. Gen. Stat. § 143-215.5 (2021) (affirming that "persons aggrieved" as defined by the APA may sue to enforce actions under Chapter 21). A "person aggrieved" is "[a]ny person or group of persons of common interest directly or indirectly affected substantially in his, her, or its person, property, or employment by an administrative decision." N.C. Gen. Stat. § 150B-2(6) (2021). Our Courts have given "person aggrieved" an "expansive interpretation," dependent upon the particular factual circumstances of each case. *Empire Power Co. v. N.C. Dep't of Env't, Health & Nat. Res., Div. of Env't Mgmt.*, 337 N.C. 569, 588, 447 S.E.2d 768, 779 (1994). Further, in instances of environmental matters, to show they have suffered injury amounting to "substantial prejudice," a party must show "sufficient geographical nexus to the site of the challenged project that he may be expected to suffer whatever environmental consequences the project may have." *Orange Cnty. v. N.C. Dep't of Transp.*, 46 N.C. App. 350, 361–62, 265 S.E.2d 890, 899 (1980).

Community groups are "groups of common interest," and may qualify as "person[s] aggrieved" if an administrative decision has a substantial adverse impact on one or more of their members. *Sound Rivers, Inc. v. N.C. Dep't of Env't Quality, Div. of Water Res.*, 271 N.C. App. 674, 691, 845 S.E.2d 802, 814 (2020) (holding community groups are "persons aggrieved" if an administrative decision has a substantial adverse impact on one or more of its members). In *Sound Rivers*, the

petitioners were found to have standing based upon allegations that DEQ's failure to follow its statutory and regulatory duties subjected its member's property neighboring the site of a proposed wastewater discharge system to various health hazards and a reduction in both property value and quality of life. *Id.* at 688, 845 S.E.2d at 812.

Here, Petitioners submitted several affidavits attesting their members' risk of substantial adverse impacts to their health and their property from the Permits to affirmatively show their standing. These affidavits show that the members of each Petitioner are concerned about the potential hazardous effects that the Permits' authorized modifications at the Farms could have on the value of their property and their quality of life. With respect to the Benson Farm, in particular, one affiant, Doug Springer, asserts that he owns a home on the riverbank of the Northeast Cape Fear River, that his family enjoys recreation on the waters of the river, and that he owns rental property and tour boating businesses that operate along the river. The Benson Farm is upstream from Springer's properties, and Springer is concerned that increased pollution from the Permits' authorized modifications could increase health risks to his family and reduce the value of his real property and businesses. Petitioners have shown sufficient evidence that their members' may be substantially prejudiced by DEQ's decision and possess a reasonable geographic nexus to the Farms. Therefore, Petitioners are "persons aggrieved" and have standing to bring their claims.

B. DEQ's Statutory Compliance

Petitioners argue the Superior Court erred by granting summary judgment against Petitioners' claims, and also by denying summary judgment in favor of Petitioners' claims. "Our standard of review of an appeal from summary judgment is de novo; such judgment is appropriate only when the record shows that 'there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law.'" *In re Will of Jones*, 362 N.C. 569, 573, 669 S.E.2d 572, 576 (2008) (citation omitted).

The issue in this case concerns whether our courts have correctly interpreted the law during Petitioners' contested case hearing, and its subsequent appeal, under the APA. Under the APA, a party aggrieved has the right to appeal an ALJ's final decision to the superior court for judicial review, and then may appeal the superior court's final judgment to this Court. *Harnett Cnty. Bd. of Educ. v. Ret. Sys. Div., Dep't of State Treasurer*, 2023 WL 6814791, ___ N.C. App. ___, ___, ___ S.E.2d ___, ___ (2023) (citing N.C. Gen. Stat. §§ 150B-43, -52 (2021)). The APA authorizes the superior court to modify or reverse an ALJ's final decision where the substantial rights of the petitioners have been prejudiced by an error of law or an abuse of discretion. *Brewington v. N.C. Dep't of Pub. Safety, State Bureau of Investigation*, 254 N.C. App. 1, 12, 802 S.E.2d 115, 124 (2017); N.C. Gen. Stat. § 150B-51(b) (2021). "It is well settled that in cases appealed from administrative tribunals, questions of law receive *de novo* review, whereas fact-intensive issues such as sufficiency of the

evidence to support an agency's decision are reviewed under the whole-record test." *N.C. Dep't of Env't & Nat. Res. v. Carroll*, 358 N.C. 649, 659, 599 S.E.2d 888, 894 (2004) (brackets, quotation marks, and citation omitted).

When reviewing the decision of an administrative agency, the Superior Court "acts in the capacity of an appellate court." *Id.* at 662, 599 S.E.2d at 896 (citation and internal marks omitted). Therefore, we afford the "institutional advantages" ordinarily granted to the Superior Court's assessment of the factual evidence presented to the ALJ, instead, and defer to the ALJ's findings of fact where such findings are supported by the evidence. *Id.* at 662, 599 S.E.2d at 896–97. "Thus, our appellate courts have recognized that '[t]he proper appellate standard for reviewing a superior court order examining a final agency decision is to examine the order for errors of law.'" *EnvironmentaLEE v. N.C. Dep't of Env't & Nat. Res.*, 258 N.C. App. 590, 595, 813 S.E.2d 673, 677 (2018) (citation omitted). "Our appellate courts have further explained that 'this "twofold task" involves: (1) determining whether the trial court exercised the appropriate scope of review and, if appropriate, (2) deciding whether the court did so properly.'" *Id.* (citation omitted).

Petitioners ask this Court to reverse the Superior Court's decision, and to hold the undisputed evidence showed, as a matter of law, that DEQ failed to adhere to two statutory duties required under N.C. Gen. Stat. § 143-215.1(b)(2): to ensure that Murphy-Brown's requests were the least-adverse alternative system available, and that the cumulative effects of the requested systems on the environment were

reasonable. The Superior Court expressly elected not to adopt the ALJ's findings of fact, but the court also did not make any findings of its own beyond its recognition that no material issues of fact existed with respect to the issues of law on judicial review. Rather, the court appropriately decreed its conclusions of law based upon "*de novo* judicial review" of the materials before it.

The pinnacle issue before this Court, then, is whether the Superior Court reached the correct conclusion of law in determining DEQ was not statutorily required to make these considerations. We hold that the permit applications in this case fell under the purview of Part 1A, and did not require DEQ to consider the requirements found in section 143-215.1(b)(2).

"In construing a statute, the Court must first ascertain the legislative intent to assure that the purpose and intent of the legislation are carried out." *Fowler v. Valencourt*, 334 N.C. 345, 348, 435 S.E.2d 530, 532 (1993) (citation omitted). "Statutory interpretation properly begins with an examination of the plain words of the statute." *Correll v. Div. of Soc. Servs.*, 332 N.C. 141, 144, 418 S.E.2d 232 (1992) (citation omitted). If the plain meaning of those words is unclear, we employ canons of construction to discern the legislature's intent. *Belmont Ass'n, Inc. v. Farwig*, 381 N.C. 306, 310, 873 S.E.2d 486, 489 (2022). "We give great weight to an agency's interpretation of a statute it is charged with administering; however, 'an agency's interpretation is not binding,' [a]nd, 'under no circumstances will the courts follow an administrative interpretation in direct conflict with the clear intent and purpose of

the act under consideration.'" *High Rock Lake Partners, LLC v. N.C. Dep't of Transp.*, 366 N.C. 315, 319, 735 S.E.2d 300, 303 (2012) (internal citations and marks omitted).

"Where one of two statutes might apply to the same situation, the statute which deals more directly and specifically with the situation controls over the statute of more general applicability." *Trustees of Rowan Tech. Coll. v. J. Hyatt Hammond Assocs., Inc.*, 313 N.C. 230, 238, 328 S.E.2d 274, 279 (1985). However, statutes that function *in pari materia* should be read together whenever it is possible to do so harmoniously, unless the legislature has made manifest a clear intent to create a conflict between the two statutes. *See Cabarrus Cnty. Bd. of Educ. v. Dep't of State Treasurer, Ret. Sys. Div.*, 374 N.C. 3, 18–19, 839 S.E.2d 814, 824–25 (2020).

DEQ granted the Permits under "Article 21 of Chapter 143" of the North Carolina General Statutes. Article 21 includes nineteen Parts, beginning with a general establishment of its purpose "to provide for the conservation of the water and air resources" of this State followed by Parts dedicated to more specific areas of conservation. N.C. Gen. Stat. § 143-211, et. seq. (2023). At the time DEQ issued the Permits,[2] section 143-215.1 in Part 1 of Article 21 required that a permit for an animal waste management system be obtained through either Part 1 or Part 1A:

> (a) Activities for Which Permits Required. -- . . . [N]o person shall do any of the following things or carry out any of the following activities unless that person has received a

[2] In 2023, our legislature passed amendments to section 143-215.1, as well as other statutes relevant to this case. *See* 2023 North Carolina Laws S.L. 2023-134 (H.B. 259). We assess DEQ's duties under the statutes as they functioned at the time.

> permit from the Commission and has complied with all conditions set forth in the permit:
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> . . .
>
> (12) Construct or operate an animal waste management system, as defined in G.S. 143-215.10B, without obtaining a permit *under either this Part or Part 1A of this Article*.

N.C. Gen. Stat. § 143-215.1(a)(12) (2021) (emphasis added). Subsections (a)(1) through (a)(11) listed other circumstances which could affect the waters of this State, and therefore require a permit. *See* N.C. Gen. Stat. § 143-215.1(a)(1-11) (2021). Section 143-215.1 then stated that DEQ must make certain considerations upon review of "all" permits:

> (2) [DEQ] shall also act on all permits so as to prevent violation of water quality standards due to the cumulative effects of permit decisions. Cumulative effects are impacts attributable to the collective effects of a number of projects and include the effects of additional projects similar to the requested permit in areas available for development in the vicinity. All permit decisions shall require that the practicable waste treatment and disposal alternative with the least adverse impact on the environment be utilized.

N.C. Gen. Stat. § 143-215.1(b)(2) (2021) (emphasis added). We refer to the considerations found in subsection (b)(2) as the "Cumulative Effects" and "Alternatives" Requirements.

The remainder of section 143-215.1 enumerates extensive guidelines for the permitting procedures governing DEQ's grant of permits for the types of activities discussed in subsections 143-215.1(a)(1) through (a)(11), i.e., sewer and disposal

systems. *See* N.C. Gen. Stat. § 143-215.1(c)-(k). Notably, though, Part 1 does not mention animal waste management permits beyond section 143-215.1(a)(12), much less provide the specifics for their contents or DEQ's considerations. Rather, the procedures for DEQ's consideration of animal waste management systems are set out in extensive and comprehensive detail in Part 1A. *See Craig v. Cnty. of Chatham,* 356 N.C. 40, 50, 565 S.E.2d 172, 179 (2002). Part 1A begins by stating that, due to the "significant economic and other benefits" that animal operations provide to this State, "the General Assembly intend[ed] to establish a permitting program for animal waste management systems that will protect water quality and promote innovative systems and practices *while minimizing the regulatory burden*." N.C. Gen. Stat. § 143-215.10A (2021) (emphasis added).

As forecast by section 143-215.1(a)(12), Part 1A of Chapter 21 set out in section 143-215.10C an alternative directive for the authorization of animal waste management systems:

> No person shall construct or operate an animal waste management system for an animal operation . . . without first obtaining an individual permit or a general permit under this Article.

N.C. Gen. Stat. § 143-215.10C(a) (2021). Section 143-215.10C continued to enumerate the required contents of an animal waste management plan for an animal operation, including checklists and best management practices for the minimization of odor and insects, as well as air, water, and soil emissions caused by the animal

operation. N.C. Gen. Stat. § 143-215.10C(e) (2021).

Section 143-21510C also explicitly avowed that DEQ "shall encourage the development of alternative and innovative animal waste management technologies[,]" and "shall provide sufficient flexibility in the regulatory process to allow for the timely evaluation of alternative and innovative animal waste management technologies and shall encourage operators of animal waste management systems to participate in the evaluation of these technologies." N.C. Gen. Stat. § 143-215.10C(g) (2021). To that end, Part 1A included a section specifically detailing the required performance standards that DEQ must consider when issuing an animal waste management system which uses an anaerobic digester system—such as the ones at issue in this case—including animal waste discharge, atmospheric emissions, and contamination to soil and groundwater. N.C. Gen. Stat. § 143-215.10I(b) (2021).

The plain language of section 143-215.1, by itself, creates an ambiguity, to which Petitioners and Respondents argue opposing interpretations. Subsection (a)(12) references both animal waste management system permits granted under Part 1 and Part 1A, then goes on in subsection (b)(2) to provide requirements which must be considered upon DEQ's review of "all" permits. Petitioners argue that, by stating "all" permits, the legislature intended the Alternatives and Cumulative Effects Requirements to apply to all permitting decisions under all Parts of Article 21. Respondents contend that subsection (b)(2) applies only to permitting decisions

under Part 1. We agree with Respondents' interpretation.

Part 1 lists twelve categories that require permits, then provides rules for the permitting processes of those categories. However, it states animal waste management systems may be permitted under Part 1 *or* Part 1A. The following reference to "all" permits in subsection (b)(2) refers back to the twelve circumstances referenced in (a) and governed by Part 1—not to permits granted by alternate processes outside of Part 1. The legislature created Part 1A with the express intent to "minimize regulatory burden" associated with the permitting process. It would produce a *more* burdensome process if permits for animal waste management systems had to pass scrutiny under the requirements and considerations found in both Part 1 and Part 1A. We must construe the statutes in favor of the legislature's stated intent, without rendering that intent inert. *Underwood v. Howland*, 274 N.C. 473, 478, 164 S.E.2d 2, 6 (1968) ("In performing our judicial task, we must avoid a construction which will operate to defeat or impair the object of the statute, if we can reasonably do so without violence to the legislative language." (citation and quotation marks omitted)).

The legislature's use of "or" in section 143-215.1(a)(12) signals the existence of these separate and alternate permitting processes. Part 1A also recognized that certain animal waste management systems were not subject to its provisions, but were instead to be permitted under Part 1. Section 143-215.10C states that "[a] person who obtains an individual permit under G.S. 143-215.1 for an animal waste

management system that serves a public livestock market shall not be required to obtain a permit under this Part and is not subject to the requirements of this Part." N.C. Gen. Stat. § 143-215.10C(i) (2021). Permits for those entities raising animals as livestock only were not of the kind that our legislature expressed a desire to make a less burdensome process, and to which the Alternatives and Cumulative Effects Requirements in section 143-215.1(b)(2) would apply. Because Part 1A begins with a stated intent to create an alternative, less burdensome permitting process, and then does create its own requirements for best management practices and performance standards, we hold that animal waste management system permits—other than the kind contemplated in section 143-215.10C(i)—are not subject to the Alternatives and Cumulative Effects Requirements in section 143-215.1(b)(2).

The Chief ALJ made findings of fact based upon undisputed evidence before the Office of Administrative Hearings showing, relevant to the question of law in this case, that Murphy-Brown sought authorization to install anaerobic digesters as part of a modification to existing animal waste management systems and submitted animal waste management plans in compliance with section 143-215.10C. Based on these findings, Murphy-Brown's requested Permits fell under Part 1A of Article 21, and DEQ was not required to consider the requirements found in Part 1, section 143-215.1(b)(2), as a matter of law. The Superior Court did not err in granting summary judgment to Respondents against Petitioners' claims.

The Superior Court's judgment is bolstered by our legislature's recently

enacted changes to section 143-215.1. "When the legislature amends a statute, a presumption arises that its intent was either to (1) change the substance of the original act or (2) clarify the meaning of it." *Trustees of Rowan Tech. Coll.*, 313 N.C. at 240, 328 S.E.2d at 280 (citation omitted). It may be presumed that changes to an ambiguous statute do not alter its meaning, but are rather done to clarify that prior ambiguity. *Id.* (citation omitted). Effective October 2023, section 143-215.1(a)(12) now reads:

> (a) Activities for Which Permits Required. -- . . . [N]o person shall do any of the following things or carry out any of the following activities unless that person has received a permit from the Commission and has complied with all conditions set forth in the permit:
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> . . .
>
> (12) Construct or operate an animal waste management system, as defined in G.S. 143-215.10B, without obtaining a permit *under Part 1A of this Article*.

N.C. Gen. Stat. § 143-215.1(a)(12) (2023) (emphasis added); *see also* 2023 North Carolina Laws S.L. 2023-134 (H.B. 259). The text "either this Part or" has been removed from section 143-215.1(a)(12), making Part 1A the only avenue through which an applicant may seek an animal waste management system permit. The present version of the statute certainly does not apply to the Permits at issue here. However, the changes do assist in our analysis of the legislature's intent for the prior section. It logically follows that the 2023 amendments to section 143-215.1(a)(12) were intended to clarify that animal waste management systems required Article 21

permits, but under Part 1A instead of Part 1.

III. Conclusion

We affirm the Superior Court's order affirming the Chief ALJ's final decision, granting summary judgment to Respondents against Petitioners' claims. For the reasons set forth herein, the Superior Court correctly applied *de novo* review and did not err in affirming the ALJ's Final Decision.

AFFIRMED.

Judges ZACHARY and ARROWOOD concur.

Report per Rule 30(e).