

SETTLEMENT AGREEMENT AND RELEASE

Eric Marsh, Cheryl Marsh, Bryan Marsh and Kimberly Marsh (collectively the “Marshes”) enter this Agreement in release and settlement of any and all claims against the North Carolina Department of Health and Human Services (“DHHS”), including the Division of Public Health (“DPH”), Rowan County, and the Rowan County Health Department (“RCHD”).

The parties to this Agreement agree and stipulate that:

1. Eric and Cheryl Marsh are the owners of property located at 575 Paulownia Drive in Rowan County, North Carolina (“Paulownia property”). Bryan and Kimberly Marsh are the owners of the house located at 575 Paulownia Drive on the Paulownia property.

2. DPH, as a division of DHHS, is responsible for the enforcement of rules and statutes regulating on-site wastewater systems and environmental health specialists in RCHD act as agents of DHHS for enforcement of such rules and statutes.

3. Eric Marsh was issued an Improvement Permit and a Construction Authorization on April 17, 2017, to serve a 3-bedroom residence on the Paulownia property.

4. On February 5 and 6, 2019, RCHD visited the site for a final inspection, but an Operation Permit was not issued. Mr. Marsh contacted the RCHD for his Operation Permit so he could move into his residence. RCHD visited the property and determined the system was not installed according to the 15A NCAC 18A .1900 rules and could not issue an Operation Permit. On May 26, 2021, Adrian Pruett, with RCHD, and Kevin Neal, with DPH, met with Bryan Marsh to evaluate the system installation and possibly locate another wastewater system location on the property. A new location for the wastewater system was located and Adrian Pruett issued a new Improvement Permit and Construction Authorization for a two-bedroom dwelling on June 1, 2021,

which required utilizing the effluent pump that was installed for the original system with 350 feet of low-profile chamber including a soil cap. The wastewater system was installed and inspected by RCHD. An Operation Permit was issued on August 2, 2021.

5. The Marshes claim that RCHD improperly permitted the site and that RCHD and DHHS are responsible for the additional costs arising from the need to install a new wastewater system in a new location.

Based upon the foregoing stipulations, and in consideration of the compromise of any claims arising from the matters set out herein and the payment of the sums set out herein, the Marshes, DHHS and RCHD voluntarily and knowingly execute this Settlement Agreement and Release with the express intention of effecting the extinguishment of any and all rights, claims, demands or obligations which the Marshes have or may have against DHHS, DPH, Rowan County, and RCHD on account of, connected with, growing out of or in any way arising out of the matters referred to herein.

NOW, THEREFORE, in consideration of the agreements contained herein, the parties agree to the following terms:

1. DHHS and RCHD will pay fifteen thousand three hundred and fifty dollars (\$15,350), which includes the costs for the difference between the installation of the original system pursuant to the original Improvement Permit/Construction Authorization and the installation of a new system pursuant to the new Construction Authorization permitted on the Paulownia property, in complete settlement of the matter set out herein. The actual cost of the system will be paid to the Marshes by DHHS and RCHD, each paying fifty percent of the actual cost not to exceed seven thousand six hundred seventy-five dollars (\$7,675).

2. The Marshes have installed the permitted wastewater system, as designated by the new Construction Authorization issued by RCHD on June 1, 2021, and an Operation Permit was issued on August 2, 2021, on the Paulownia property in accordance with all state and local laws and rules, including all applicable permits, authorizations, and approvals from RCHD, and agree to properly operate and maintain the wastewater system in accordance with state and local laws and rules.

3. The parties agree that costs for the work which has been completed, which includes(a) clearing the new location for system installation; (b) 350 feet of low profile chamber; (c) pressure manifold; (d) supply lines; (e) soil cover; and, (f) associated plumbing and electrical and all labor or services required for the installation of such items as specified in the Construction Authorization, are included in the payment provided by DHHS and RCHD in accordance with this Agreement. DHHS and RCHD shall bear no financial responsibility beyond the scope of work specified in the Construction Authorization and the amount specified in this Agreement.

4. The parties agree that the Marshes or their heirs, successors and assigns will perform all required operation and maintenance of the wastewater system for so long as the wastewater system and all such costs are solely the responsibility of the Marshes or their heirs, successors and assigns.

5. For the sole and only consideration of a total amount stated above in paragraph 1, the undersigned the Marshes, for their heirs, executors, administrators, successors and assigns, do RELEASE AND FOREVER DISCHARGE DHHS, including DPH, Rowan County, RCHD, and their present or former officers, employees, agents and servants, and anyone or any entity existing, both individually, and otherwise, specifically including but not limited to Steve Cannon, Robert Nations, Adrian Pruett, Jon Fowlkes, and Kevin Neal, of and from any and all, known or unknown,

claims, demands, damages, actions, causes of action of whatever kind or nature, for the evaluation, issuance, denial, suspension, or revocation of any wastewater permits and authorizations, specifically including but not limited to any repairs or authorizations for repairs of systems, or for any evaluation, preparation, excavation, or installation related to any wastewater systems on the Paulownia property or the installation, operation or maintenance of the wastewater system on the Paulownia property, in any way connected to, either directly or indirectly, the approval or operation of a wastewater system on such property, or for any alleged breach of duty, neglect, violation of constitutional rights, financial losses, lost wages or income, interest or mortgage rates, recoupment of expenses, payments to third parties, emotional distress, pain and suffering, and any and all other damages on account of or arising from the matters set out herein.

6. The Marshes acknowledge and agree that the release and discharge set forth herein is a general release of all claims on their behalf. The Marshes understand that this release is made as a compromise to avoid expense and to terminate all controversy and/or claims for damages or injuries, subrogation and third-party or otherwise, of whatever nature, known or unknown, including future developments thereof, in any way growing out of or connected to the matters set out herein. The Marshes expressly waive and assume the risk of any and all claims for damages, including any claims that they do not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and that, if known, would materially affect their decision to enter into this Settlement Agreement and Release.

7. The Marshes understand and agree that the sums paid by DHHS and RCHD are solely by way of compromise of any claims and are not to be construed as an admission of wrongdoing or liability, and DHHS, DPH, Rowan County, and RCHD specifically deny any wrongdoing or liability.

8. Nothing in this Agreement shall relieve the Marshes of their responsibility to comply with applicable rules and statutes for wastewater systems.

9. If either party fails to abide by the terms of this Agreement, the other party shall enjoy any applicable remedy at law to enforce the terms of this Agreement.

10. The parties understand and agree that they have read and reviewed this instrument and that this instrument contains the entire Agreement between the parties hereto, that the terms of this Settlement Agreement and Release are in full settlement of all claims and are not mere recitals.

11. The parties understand and agree that the terms of this Settlement Agreement and Release are set out herein in their entirety and that no part of this Settlement Agreement and Release may be changed in any way unless the change is made in writing and signed by all parties.

12. This Agreement becomes binding on the parties hereto only when signed by all named parties. The parties agree that the parties may sign facsimile or electronic copies of this Agreement and it will have the same effect as an original signature, and signatures may be signed on separate pages and still have full force and effect.

In witness whereof, the parties hereto have executed this Settlement Agreement and Release on this the _____ day of _____, 2022 and have set forth their signatures and seals with the intention of executing this document under seal.

Eric Marsh

Cheryl Marsh

Mark T. Benton
Assistant Secretary for Public Health
DPH, DHHS

Bryan Marsh

Kimberly Marsh

Aaron Church
Rowan County Manager on behalf of
Rowan County and RCHD