



February 21, 2023

Via Email: megan.dalbec@state.mn.us

Also Submitted Online at: <http://www.pca.state.mn.us/publiccomments>

Megan Dalbec
Industrial Division
Minnesota Pollution Control Agency
520 Lafayette Rd
Saint Paul, MN 55155

Re: In the Matter of the Intent to Reissue Air Individual Permit Major Amendment Permit
No. 03900028-102 to Al-Corn Clean Fuel LLC

Dear Ms. Dalbec:

Al-Corn Clean Fuel LLC ("Al-Corn"), the proposed Permittee in the above referenced matter, submits for filing the following documents related to Draft Air Individual Permit/Major Amendment, No. 03900028-102 as proposed by the Minnesota Pollution Control Agency ("MPCA"), Air Quality Permits Section, Industrial Division (the "Draft Permit"):

- An annotated version of the Draft Permit raising over 400 fact-specific, line-item disputes with the terms and conditions in the Draft Permit (the "Annotated Permit").
- The Affidavit of Colin Campbell.

Al-Corn is a local farmer-owned company that has been an important part of its community since it first opened the Claremont, Minnesota facility (the "Facility") in 1996. The Facility is an economic driver, supportive employer, and valued asset in a rural agricultural community that does not often receive significant investment. Moreover, Al-Corn's business is making the sustainable products, including transportation fuels and animal feed, that are critical if Minnesota is to meet its transportation greenhouse-gas-reduction goals and reduce tailpipe emissions.

Al-Corn can and wants to do even more for the Claremont community, area farmers, and Minnesota's economy. In October 2017, Al-Corn submitted an application for an amendment to its Air Individual Permit, requesting permission to construct new grain storage, product storage, and loadout facilities; to modify facility utilities; and to increase efficiency in production by 10 million gallons per year of ethanol. These improvements would allow Al-Corn to capitalize on market opportunities, provide more flexibility for farmers, and improve its operations.

Al-Corn has worked in good faith with MPCA during a permitting process that has now lasted more than five years. Indeed, Al-Corn engaged with MPCA staff in countless meetings and telephone calls and responded to numerous requests for information. This process required the devotion of significant staff time and the hiring of multiple technical experts and legal professionals at great expense. Al-Corn realizes that the permitting process can also require significant time and effort from MPCA. However, after more than five years, Al-Corn has grown frustrated with MPCA's undue delay, the result of which was a Draft Permit that Al-Corn did not get to review

prior to public notice, that is filled with unacceptable factual errors, and that puts Al-Corn at a competitive disadvantage to those companies that have fled to states regarded as more business-friendly.

With respect to public notice, Al-Corn was dismayed that the Draft Permit was released without MPCA meaningfully considering or substantively responding to many of Al-Corn's concerns, including the numerous non-controversial comments that Al-Corn felt MPCA had no legitimate basis to ignore. Despite not having access to a complete version of the Draft Permit, Al-Corn told MPCA of the significant and widespread problems with the Draft Permit *before* it was noticed for public comment. Al-Corn asked several times that the Draft Permit not be released until these problems were corrected or otherwise addressed, yet MPCA declined what we believe were very reasonable requests, intended to avoid unnecessary problems in the Draft Permit.

The result of MPCA's refusal was the release of a Draft Permit that contains at least 400 permit terms that are factually unsupported, technically incorrect, unsupported by regulations, and/or beyond MPCA's authority. Our expert, Colin Campbell,¹ has identified significant issues with the Draft Permit, including: MPCA's proposed emission limits that are not achievable; MPCA's failure to provide calculations or other evidence to support many permit terms; MPCA's inability to identify the authority underpinning many permit terms; a lack of technical support; and at least one permit term he describes as "based upon an entirely irrational presumption." Many, if not all, of these issues could have been avoided if MPCA would have collaborated with Al-Corn.

We also note that the Draft Permit, with attachments, is 613 pages and the ancillary Technical Support Document is another 563 pages. MPCA chose to create this incredibly prescriptive and massive air permit which regulates nearly every activity on site, down to the fuel use in the lawn mowers. These detailed and extensive requirements each have adjunct compliance demonstration, monitoring, recordkeeping, and reporting obligations, causing the permit to swell in length and complexity. This is unnecessary. Permits issued to facilities of similar size and complexity are often less than 100 pages in neighboring states, making them less prescriptive in detail. In fact, the MPCA itself has proposed less restrictive permitting obligations in analogous situations outside of the ethanol industry, as shown in Mr. Campbell's Affidavit.

At this juncture, despite the more than five years and the astronomical amount of human capital Al-Corn has invested in this permitting process, we have been met with a Draft Permit that is inaccurate, unsupported, and unworkable. The business community does not wait for Al-Corn to wade through these extended regulatory delays. The uncertainty of when we will receive a permit, and what will be in it, affects investments and our ability to respond to the market. Similar and even more complex projects are permitted in neighboring states in often less than 100 days. This places both Al-Corn and Minnesota at a competitive disadvantage. Indeed, other companies have "voted with their feet." These high-profile projects have announced that they are leaving the state due to long permitting durations and delay. Epite Energy recently decided to move its planned \$400 million soybean-crushing plant over the border into North Dakota after waiting for MPCA permits. Huber Engineered Woods also recently abandoned plans for building a \$439 million OSB plant in Cohasset, Minnesota, citing permitting delays.

¹ Mr. Campbell provides technical support to state and local agencies in developing and administering their stationary source permitting programs. He also frequently teaches courses on NSR air permitting regulations for audiences, including representatives of state permitting authorities such as the MPCA and U.S. Environmental Protection Agency.

Al-Corn hopes that we can continue to work on resolving the issues identified in the attached documents through the comment process. However, Al-Corn is also simultaneously filing a Petition for a Contested Case Hearing to ensure that the issues with the Draft Permit identified above are appropriately scrutinized.

Please contact me directly if you have any questions.

Respectfully,

A handwritten signature in blue ink, appearing to read "Thomas Harwood", with a stylized flourish extending to the right.

Thomas Harwood, CEO
Al-Corn Clean Fuel LLC