



## **Effingham Collocation Determination May 6, 2021**

The Bureau of Air Quality (Bureau) has received and reviewed the information regarding a request for a collocation determination for Effingham Pellets, LLC and Charles Ingram Lumber Company, Inc. Based on the information received, the proposed pellet facility will produce wood pellets from dried wood shavings, primarily provided by Charles Ingram. Effingham Pellets will be located on property leased from Charles Ingram and has a contract with the lumber mill to purchase a fixed volume of dry shavings annually. Charles Ingram retains the right to sell additional shavings on the free market. Likewise, Effingham Pellets has the ability to purchase additional shavings from other sources. The two facilities will not share employees or management, but Charles Ingram has been contracted to perform some accounting and administrative functions for the pellet facility.

In making this determination regarding this collocation request, the Department has considered collocation in the context of Title I, Title III, and Title V of the Clean Air Act. Collocation determinations generally involve three aspects: 1) contiguous/adjacent sites, 2) same industrial grouping, and 3) common control.

Effingham Pellets does not dispute that the new pellet plant and Charles Ingram will operate within the same SIC industrial grouping and on contiguous sites owned by Charles Ingram; however, Effingham Pellets claims that the two facilities do not operate under common control and therefore should be considered a separate source from Charles Ingram.

The basis of this, as submitted by Effingham Pellets, is that Charles Ingram will not have controlling interest in the new facility. Effingham Pellets, LLC is 50% owned by CMB Effingham, LLC and 50% owned by Effingham Bio Fuels, LLC, both of which will appoint a manager to the pellet facility. All major decisions for the operation of Effingham Pellets require unanimous consent of the appointed managers. Charles Ingram Lumber Company, Inc. owns 40% of Effingham Bio Fuels, with the other 60% is evenly divided between three upper level employees of Charles Ingram. One of these individuals is also a minority stakeholder in Charles Ingram. The Department has called into question the extent of Charles Ingram's interest represented in Effingham Bio Fuels, and subsequently Effingham Pellets, given the relationship between it and the employee owners. It does not appear that stake in Effingham Bio Fuels is contingent on employment at Charles Ingram. Therefore, while Charles Ingram's influence may be increased through the individual stakeholders, it does not constitute control over the company or its appointed manager. Given the equal standing of Effingham Bio Fuels and CMB Effingham, Effingham Pellets proposes that neither has a controlling interest. Even if Charles Ingram extended its control of Effingham Bio Fuels through its individual stakeholders, it would still have limited control over operations through their appointed manager.

In order to verify Effingham Pellets' claim that the two facilities are not collocated, the Bureau consulted with its legal department to confirm that the operational arrangement did not constitute common control. The legal department proceeded by reviewing several documents, including Effingham's Articles of Organization, the lease agreement, the contract for the sale of wood fibers to Effingham by Charles Ingram, and the contract for the sale of wood pellets to CM Biomass by Effingham Pellets. Based on the organizational structure of the facility, Chief Counsel agreed that while there is crossover between ownership and managing interest, no entity has clear majority ownership with the ability to dictate or control the other. Furthermore, all contractual agreements

appear to use market-rate pricing which indicate arms-length agreements. Counsel did question true ownership of the assets, or equipment, as laid out in the lease agreement, and whether Effingham Pellets should be considered an owner or an operator. In response to this question, Effingham Pellets has asserted that they will own the equipment at the facility, which is supported by their contract with Spanish manufacturing, Prodesa, to purchase the production equipment.

Based upon this information, the Bureau has determined that the future operations are not to be considered collocated for Title I, Title III, and Title V at this time; therefore, a permit will be issued to Effingham Pellets, LLC, independent of Charles Ingram Lumber Company, Inc.