



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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PAUL R. LEPAGE  
GOVERNOR

DARRYL N. BROWN  
COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection  
FROM: Bryce J. Sproul, Division of Licensing and Enforcement, Bureau of Air Quality  
DATE: March 17, 2011  
SUBJECT: Notice of Appeal and Request for Public Hearing – Board Findings of Fact and Order on Air Emission License A-1041-71-A-N (SM). Berwick Metal And Iron Recycling, Inc

Summary

Berwick Iron and Metal Recycling, Inc. (Berwick) was issued an air emission license for the construction and operation of a diesel powered metal shredder at their scrap iron and metal recycling facility in Berwick on October 27, 2010. The diesel engine is a 3600 horsepower, 20 cylinder turbocharged General-Motors Model 20-645-E3 diesel locomotive engine with a rated input of 200 gallons per hour. The metal shredder is a Texas Shredder Model 8104, with a throughput capacity of 50 to 100 tons per hour, depending on the material being processed. The shredder is equipped with water sprays to control fugitive emissions.

On October 19, 2010 the Department received a letter from Tim Murphy, Prescott Jamieson Nelson & Murphy, LLC on behalf of the Appellants in which he expressed concerns regarding the license and requested that the Department delay issuance of the license until those issues could be more fully analyzed and adequately resolved. Mr. Murphy also requested that the Department consider proactively modifying the license if it has already been issued. The Department considered Mr. Murphy's concerns and issued the license on October 27, 2010. The Department failed to immediately provide Mr. Murphy a copy of the approved license as required by 06-096 CMR 2 §18(B).

Mr. Murphy faxed a second letter to the Department on November 12, 2010 informing the Department of the 06-096 CMR 2 §18(B) requirement to provide him a copy of the signed license as he had not yet received it. The signed license was faxed to Mr. Murphy on November 15, 2010.

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On November 26, 2010, Attorneys David B. Van Slyke, Jeffrey D. Talbert and Tim Murphy filed a Notice of Appeal and Request for Public Hearing on Air Emission License A-1041-71-A-N (SM).

**Documentation**

The following documentation is included in this Board packet:

Item	Description	Date
1.	Order Under Appeal: Letter from Marc Allen Robert Cone, to Mr. Robert Brenna, President, Berwick Iron & Metal Recycling, Inc., forwarding the signed Air Emission License.	Oct. 27, 2010
2.	Appeal Documents: Letter from David B. Van Slyke, Jeffrey D. Talbert, and Tim Murphy to Susan Lessard, Chair, Board of Environmental Protection regarding notice of appeal and request for public hearing – Departmental findings of fact and order on Air Emission License A-1041-71-A-N.	Nov. 26, 2010
3.	Licensee’s Response to Appeal: Letter from Matthew D. Manahan, Pierce Atwood, to Susan M. Lessard, Chair, Board of Environmental Protection, regarding the response of Berwick Iron & Metal Recycling, Inc. to the Appeal.	Dec. 30, 2010
4.	Application for Chapter 115 Air Emission License, submitted by Morrison Environmental Engineering, on behalf of Berwick Iron & Metal Recycling, Inc.	June 16, 2010
5.	Letter from Marc Allen Robert Cone, PE, Department of Environmental Protection to Mr. Robert Brenna, President, Berwick Iron & Metal Recycling, Inc., accepting the application for processing with license number A-1041-71-A-N	July 28, 2010
6.	Letter from Alan Morrison, Vice President, Morrison Environmental Engineering to Ms. Lynn Cornfield, Department of Environmental Protection, regarding an addendum to the Best Available Control Technology (BACT) analysis	Aug. 26, 2010

7. Letter from Tim Murphy, Prescott Jamieson Nelson & Murphy, LLC to James Brooks, Director, Bureau of Air Quality, Department of Environmental Protection regarding his clients concerns about the air emission license for Berwick Iron & Metal Recycling, Inc. Oct. 19, 2010
8. Facsimile transmission of letter from Timothy S. Murphy to James Brooks, regarding Mr. Murphy's letter of October 19, 2010. Nov. 12, 2010
9. Letter from Timothy S. Murphy, to James Brooks, regarding Mr. Murphy's letter of October 19, 2010. Nov. 12, 2010
10. Facsimile transmission from Lynn Cornfield to Timothy S. Murphy of signed Air Emission License A-1041-71-A-N, issued to Berwick Iron & Metal Recycling, Inc. Nov. 15, 2010
11. Letter from Bryce J. Sproul, Director, Division of Licensing and Enforcement, Bureau of Air Quality, Department of Environmental Protection, to Timothy Murphy and David B. Van Slyke, responding to Mr. Murphy's correspondence of October 19, 2010 and November 12, 2010. Nov. 29, 2010

### **Staff Recommendation**

The Department recommends that the Board DENY the request for a public hearing and DENY the appeal of the Appellants of air emission license A-1041-71-A-N based on the information in the file.

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