

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



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MEMORANDUM

TO: Board of Environmental Protection

FROM: Bryce J. Sproul, Division of Licensing and Enforcement, Bureau of Air Quality

DATE: April 21, 2011

SUBJECT: Petition to Revoke, Modify or Suspend Air License – Board Findings of Fact and Order on Air Emission License A-1041-71-A-N(SM), Berwick Iron & Metal Recycling, Inc.

**Summary:**

Berwick Iron & Metal Recycling, Inc. (BI&MR) 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 upon the material being processed. The shredder is equipped with water sprays to control fugitive emissions.

On March 11, 2011, Jeanette and Doug Seivwright, Robert and Donna Duffy, Tom and Carol Planche, and Joyce and Raymond Provencher (“Petitioners”) petitioned the Board of Environmental Protection (“Board”) to revoke, modify or suspend the air emission license issued to BI&MR, based on the following criteria: (1) the licensee has violated any law administered by the Department; (2) BI&MR obtained its air emission license by misrepresenting or failing to disclose fully all relevant facts; and (3) there has been a change in any condition or circumstance that requires revocation, suspension or a temporary or permanent modification of the terms of the license.

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The Petitioners argue: (1) BI&MR began construction of its shredding operation prior to issuance of the Air Emission License. BI&MR acknowledges the shredder and diesel engine were installed without the Air Emission License; however, this was done after DEP staff informed BI&MR that licenses were required for operation of the equipment, not for installation.

The Petitioners allege BI&MR failed to hold a public informational meeting prior to filing its application, as BI&MR required licenses from more than two Bureaus. BI&MR's project requires licenses from the Bureau of Air Quality and the Bureau of Remediation and Waste Management. Requiring licenses from two Bureaus does not satisfy the requirement for "more than two" licenses.

The Petitioners allege BI&MR (2) obtained an Air Emission License by misrepresenting or failing to disclose fully all relevant facts, and/or (3) there has been a change in circumstance that requires revocation, suspension or a temporary or permanent modification to the terms of its license in that BI&MR installed a portable generator that is not included on its Air Emission License.

At the time the Air Emission License was issued on October 27, 2010, the portable generator was not on site, thus there was no misrepresentation nor failure to fully disclose it in the application. The portable generator was brought on site in November 2010, however it is not installed nor connected for use. As a portable unit, the generator does not require any installations of a "permanent" nature which would trigger the requirement for a new Air Emission License or an Amendment to a current Air Emission License prior to beginning actual construction.

As BI&MR has no plans to make permanent physical installations to support the portable generator, or to connect the generator so it will emit regulated pollutants, there has been no change in circumstance that requires revocation, suspension or a temporary or permanent modification of the terms of the license. Such plans would not trigger the need for revocation, suspension or modification, but rather an amendment to the current Air Emission License.

**Staff Recommendation:**

The Department recommends the Board DISMISS the Petition to revoke, modify or suspend Air Emission License A-1041-71-A-N(SM) based on the information in the file.