

# RAMSEY THORNTON BARRETT OSBORN

10200 Ramsey Way  
Dickson, Tennessee 37055  
Tel: (615) 740-5700  
Fax: (615) 446-1686

Lawrence E. Ramsey (1945-2007)  
R. Eric Thornton  
Joseph M. Barrett  
Jordan B. Osborn\*†

\*TN Rule 31 Family Mediator  
†TN Rule 31 Civil Mediator

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Dickson County, Tennessee Regional Board of Zoning Appeals  
4 Court Square  
Charlotte, TN 37055

To the Dickson County, Tennessee Regional Board of Zoning Appeals:

## **I. Statement of Interest**

This brief is filed by the attorneys at Ramsey, Thornton, Barrett, Osborn, PLC in an attempt to add clarity to the question of whether “Project DV<sup>1</sup>” meets the special exception requirement outlined in Article V, Section 5.047 of the Dickson County Zoning Resolution. Our understanding is the purpose of the July 7, 2020 Board of Zoning Appeals Meeting is to determine whether the Planning Director and the Planning Commission have met the requirements and criteria for Project DV in M-1, Heavy Industrial district. It is our belief that a Special Exception is required pursuant to section 5.047(C)(8) of the Dickson County Zoning Resolution. That provision states that “[i]n the M-1, Heavy Industrial District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VIII, Section 8.060.

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1. We note that this proposed project is publicly referred to as the “Burns Fuel Depot.” Buckeye Partners, LP and Titans Partners, LLC refer to this same project as “*Interstate Acres*” and “*Dickson Terminal*” on various permit applications on file with the State of Tennessee. For the purposes of this brief, we will refer all projects related to this site, however named on the many permit applications, as Project DV.

Subsection eight (8) lists “Petroleum refining and related industries” as being a use that meets the requirements of a special exception. It is our contention that Project DV will be engaging in the refinement of petroleum. Alternatively, the planned actions of Project DV certainly qualify as an industry related to petroleum refining.

**II. The planned activities of Buckeye/Titan at Project DV constitute the refining of petroleum.**

On the “About Us” section of Buckeye’s website, it states that “Buckeye’s global network of marine terminals enables it to facilitate global flows of crude oil and refined petroleum products, offering its customers connectivity between supply areas and market centers through some of the world’s most important bulk liquid storage and blending hubs.” See <https://www.buckeye.com/AboutUs/tabid/54/Default.aspx>. Based on the little information that has been publicly released, it is our contention that the planned fuel terminal qualifies as a petroleum refinery because there will be blending of different fuels prior to transport. According to Buckeye’s own website, it is in the business of transporting crude oil and refined petroleum products to “blending hubs.” We are unsure at this point, whether Buckeye/Titan plans on using Project DV as one of its “blending hubs.” This is just one example of why this Board should continue these proceedings until more information can be ascertained regarding the Buckeye/Titan’s plans at Project DV. Of particular importance, is whether Buckeye/Titan plans to only store crude oil, whether it plans to further process the petroleum once it is at the terminal, and whether it intends to use the terminal as one of its “blending hubs.”

In the course of our research, we have been unable to find a Tennessee Statute or a Tennessee judicial opinion that directly defines “refinery.” However, we have found definitions in the Code of Federal Regulations and Texas law. We believe that the planned actions of Project DV meet both definitions of “refinery.” Title 40 of the Code of Federal Regulations defines “refinery” as “any facility, including but not limited to, a plant, tanker truck, or vessel where gasoline or diesel fuel is produced, including any facility at which blendstocks are combined to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel.” 40 C.F.R. § 80.2 (2015). We note that Titan Partners states on its website that it is a subsidiary of Buckeye, a Houston, Texas based company. Because of Buckeye/Titan’s relationship with Texas, we assert that the Texas definition of “refinery” is relevant to how this Board should analyze whether Project DV is a petroleum refinery. Under a Texas provision, a facility is classified as a refinery when fuel “may be removed by pipeline or marine vessel or at a rack.” Tex. Tax Code Ann. § 162.00(51). Likewise, the same definitional section defines a rack as “a mechanism for delivering motor fuel from a refinery, terminal, marine vessel, or bulk plant into a transport vehicle, railroad tank car, or other means of transfer that is outside the bulk transfer/terminal system.” Tex. Tax Code Ann. § 162.00(50).

The National Renewable Energy Laboratory explains that blending of fuel components occurs throughout fuel terminals.<sup>2</sup> The author explains that terminals do not own their own refueling trucks. Rather, these trucks are often owned by a convenience store chain, like Shell. At many terminals, a trucker will select the fuel type that he or she wishes to transport. In

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2. See Kristi Moriarty, *High Octane Fuel Terminal Backgrounder*, National Renewable Energy Laboratory, [https://afdc.energy.gov/files/u/publication/hof\\_terminal\\_backgrounder.pdf](https://afdc.energy.gov/files/u/publication/hof_terminal_backgrounder.pdf).

response to the trucker's fuel selection, the terminal fuel system will release fuel from multiple tanks and deliver the fuel to the rack. Once at the rack, the fuel is blended and loaded into the truck through a loading arm. It is our belief that this is the type of conduct that will occur at Project DV. This conduct meets the statutory definitions of refinery; therefore, this Board should follow the special exceptions procedures outlined in Article VIII, Section 8.060.

**III. Alternatively, the planned activities of Buckeye/Titan at Project DV constitute an industry related to the refining of petroleum.**

If this Board finds that the planned activities of Buckeye/Titan do not rise to the refining of petroleum, we urge this Board to conclude that the planned actions are a "related industry" and would require review and approval as a special exception to Section 5.047(C) of the Dickson County Zoning Resolution. It is our belief that the "related industries" language in Section 5.047 serves as a catch-all provision, meant to incapsulate industries that are related to the refinement of petroleum. We encourage this Board to broadly define "related industry," which is consistent with how the Tennessee Legislature defines it. For example, one section of Tennessee Code Annotated offers examples of industries related to transportation. That provision states that related industries of transportation include "but not limited to, wholesalers, transportation equipment manufacturers, shipping companies, and local transit authorities." T.C.A. § 68-204-104 (3)(D). This Board should find that the planned actions at Project DV are a "related industry"; therefore, the activities would require review and approval consistent with the procedures outlined in Section 8.060. Otherwise, the planned actions at Project DV are prohibited pursuant to Section 5.047(D) because this Board has not "specifically permitted or permitted the uses upon approval as a special exception," the activities are expressly prohibited under Section 5.047 (D).

Respectively submitted,

Robert E. Thornton, BPR #19626

*Joseph M. Barrett w/ permission by [Signature] BPR 31253*

Joseph M. Barrett, BPR #21154

Jordan B. Osborn, BPR #31253

Sydney A. Franklin, BPR #37781