

ILLINOIS POLLUTION CONTROL BOARD
October 6, 2022

BUCKEYE TERMINALS, LLC VAPOR)	
RECOVERY UNIT (Property Identification)	
Number 18-23-302-020-0000),)	
)	
Petitioner,)	
)	PCB 23-45
v.)	(Tax Certification - Air)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (By A. Palivos):

On September 23, 2022, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify a specified facility of Buckeye Terminals, L.L.C. (Buckeye Terminals) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2020); 35 Ill. Adm. Code 125. Buckeye Terminals’ Vapor Recovery Unit is located at Buckeye Terminals’ Argo Terminal, located at 8600 West 71st Street, Bedford Park, Cook County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Buckeye Terminals’ identified Vapor Recovery Unit is a pollution control facility.

LEGAL FRAMEWORK

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2020); *see also* 35 Ill. Adm. Code 125.200(a)(2). “For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue].” 35 ILCS 200/11-20 (2020); *see also* 35 Ill. Adm. Code 125.200(a). Under the statute, the Board determines if the facilities are pollution control facilities; however, the Board is not authorized to assess a value of those facilities.

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. *See* 35 Ill. Adm. Code 125.202. If the Agency receives a tax certification application, the Agency must file with the Board a recommendation on the application, unless the applicant withdraws the application. *See* 35 Ill. Adm. Code 125.204(a). Among other things, the Agency’s filing must recommend that the Board issue or deny tax certification. *See* 35 Ill. Adm. Code 125.204(a)(4). If the Board finds “that the claimed facility or relevant portion thereof is a pollution control facility . . . , the Pollution Control Board . . . shall enter a finding and issue a certificate to that effect.” 35 ILCS 200/11-25 (2020); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Buckeye Terminals on June 30, 2022.¹ Rec. at 1. On September 23, 2022, the Agency filed a recommendation with the Board, attaching Buckeye Terminals' application (Rec. Exh. A). The Agency's recommendation identifies and describes the facility at issue:

The subject matter of this request involves the prior installation of a Vapor Recovery Unit at the Argo Terminal. The unit consists of a liquid transfer pump, suction scrubber, rotary compressor and miscellaneous piping and valves that will operate to collect and control volatile organic material (VOM) emissions associated with the transfer or unloading of trucks. *See*, Exhibit A, page 2 of 3; Attachment A process flow diagram. The unit results in the collection of VOM emissions from the transfer or unloading processes and directs the vapors to an enclosed flare, which reduces emissions that would otherwise be emitted to the atmosphere from process operations. *Id.*, Attachment B, page 1. In doing so, the facility can assure compliance with the Pollution Control Board's VOM-related emissions standards found at 35 Ill. Adm. Code §218.582(a)(1) and/or United States Environmental Protection Agency's New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) governing bulk gasoline terminals found at 40 C.F.R §60.502(b) and 40 C.F.R. §63.11088(a) and Table 2 of Subpart BBBB, respectively. *See*, Exhibit B, page 1 and 2. *Id.* at 2.

The Agency further states “the primary purpose of the Vapor Recovery Unit [is] to collect and control VOM emissions from its unloading process and to comply with applicable air pollution standards” and “it is the Agency's engineering judgment that the unit and related appurtenances may be considered as ‘pollution control facilities’ in accordance with the statutory definition [Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2020))] and consistent with the Board's regulations at 35 Ill. Adm. Code 125.200.” Rec. at 2-3; *see also* Rec., Agency Technical Memorandum.

TAX CERTIFICATE

Based upon the Agency's recommendation, Buckeye Terminals' application, and the Board's technical review, the Board finds and certifies that Buckeye Terminals' Vapor Recovery Unit identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2020)). The Board makes no finding regarding the assessed value of that facility. Under Section 11-25 of the Property Tax Code, the effective date of this certificate is “the date of application for the certificate or the date of the construction of the facility, which ever is later.” 35 ILCS 200/11-25 (2020); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board's procedural rules states that the Clerk “will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any.*” 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2020)). The Clerk therefore will provide Buckeye Terminals and the Agency with a copy of this order.

¹ The Agency's recommendation is cited as “Rec. at _.”

IT IS SO ORDERED.

Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the Board's finding and order to the Circuit Court under the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (2020)). *See* 35 ILCS 200/11-60 (2020). Within 35 days after receiving this final Board order, a party to this Board proceeding may file a motion asking the Board to reconsider or modify the order. 35 Ill. Adm. Code 101.520. Filing a motion to reconsider this final Board order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court	
Parties	Board
Buckeye Terminals, LLC Argo Terminal 8600 West 71 st Street Bedford Park, IL 60501 Kathryn Tronsberg Macciocca c/o Kroll 2000 Market Street Suite 2700 Philadelphia, PA 19103	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605
Robb H. Layman Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62894-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 6, 2022, by a vote of 5-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board