

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of)
)
IFM Global Infrastructure Fund)
 a Unit Trust,)
)
Buckeye Partners, L.P.,)
 a limited partnership, and)
)
Magellan Midstream Partners, L.P.,)
 a limited partnership.)

DECISION AND ORDER
Docket No. C-4765

DECISION

The Federal Trade Commission initiated an investigation of the proposed acquisition by Respondent IFM Global Infrastructure Fund, the ultimate parent entity of Respondent Buckeye Partners, L.P., of certain terminal assets from Respondent Magellan Midstream Partners, L.P. (collectively “Respondents”). The Commission’s Bureau of Competition prepared and furnished to Respondents the Draft Complaint, which it proposed to present to the Commission for its consideration. If issued by the Commission, the Draft Complaint would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45 (collectively, “Acts”).

Respondents and the Bureau of Competition executed an Agreement Containing Consent Order (“Consent Agreement”) containing (1) an admission by Respondents of all the jurisdictional facts set forth in the Draft Complaint, (2) a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in the Draft Complaint, or that the facts as alleged in the Draft Complaint, other than jurisdictional facts, are true, (3) waivers and other provisions as required by the Commission’s Rules, and (4) a proposed Decision and Order and Order to Maintain Assets.

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect. The Commission accepted the Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments; at the same time, it issued and served its Complaint and Order to Maintain Assets. The Commission duly considered any comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34. Now, in further conformity with the procedure described in Rule 2.34, the Commission makes the following jurisdictional findings and issues the following Decision and Order (“Order”):

1. Respondent IFM Global Infrastructure Fund is a trust organized, existing, and doing business under and by virtue of the laws of the Cayman Islands, with its executive offices and principal place of business located a Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman, KY1-111, Cayman Islands.
2. Respondent Buckeye Partners, L.P. is a limited partnership organized, existing, and doing business under and by virtue of the laws of Delaware, with its executive offices and principal place of business located at 4200 Westheimer Road, Suite 975, Houston, Texas 77027.
3. Respondent Magellan Midstream Partners, L.P. is a limited partnership organized, existing, and doing business under and by virtue of the laws of Delaware, with its executive offices and principal place of business located at One Williams Center, Tulsa, Oklahoma 74172.
4. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondents, and the proceeding is in the public interest.

ORDER

I. Definitions

IT IS HEREBY ORDERED that, as used in this Order, the following definitions apply:

- A. “IFM Global” means IFM Global Infrastructure Fund, its directors, officers, employees, agents and representatives, including trustee Conyers Trust Company (Cayman) Limited (trustee acting on behalf of IFM Global Infrastructure Fund), partners, successors, and assigns; and the portfolio companies, joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by IFM Global Infrastructure Fund, including Buckeye Partners, L.P., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. “Buckeye” means Buckeye Partners, L.P., its directors, officers, employees, agents, partners, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Buckeye Partners, L.P., and the respective directors, officers, general partners, employees, agents, representatives, successors, and assigns of each.

- C. “Magellan” means Magellan Midstream Partners, L.P., its directors, officers, employees, agents, partners, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Magellan Midstream Partners, L.P., including Magellan OLP, L.P., Magellan Terminals Holdings, L.P., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- D. “U.S. Venture” means U.S. Venture, Inc., a corporation organized, existing, and doing business under, and by virtue of the laws of the state of Wisconsin, with its office and principal place of business located at 425 Better Way, Appleton, Wisconsin 54915. U.S. Oil is a division of U.S. Venture.
- E. “Commission” means the Federal Trade Commission.
- F. “Acquirer(s)” means:
1. U.S. Venture; or
 2. Any other Person that the Commission approves to acquire the Terminal Assets pursuant to this Order.
- G. “Acquisition” means the proposed acquisition described in the agreement titled “Equity Purchase Agreement” by and between Magellan OLP, L.P. and Buckeye Partners, L.P., dated as of June 9, 2021.
- H. “Acquisition Date” means the date Respondents consummate the Acquisition.
- I. “Business Information” means books, records, data, and information, wherever located and however stored, used in or related to the operation of the Terminal Business relating to the Terminal Assets, including documents, written information, graphic materials, and any such data and information stored in electronic format, along with the knowledge of employees, contractors, and representatives. Business Information includes books, records, data, and information relating to sales, marketing, logistics, products, pricing, promotions, advertising, personnel, accounting, business strategy, information technology systems, customers, suppliers, vendors, research and development, equipment operations, and all other information used in the operation of the Terminal Business relating to the Terminal Assets. Business Information includes Confidential Business Information.
- J. “Confidential Business Information” means all Business Information and knowledge of employees not in the public domain, except for any information that was or becomes generally available to the public other than as a result of disclosure by Respondents.
- K. “Consent” means an approval, consent, ratification, waivers, or other authorization.

- L. “Contract” means an agreement, contract, lease, license agreement, consensual obligation, promise or undertaking with one or more third parties, whether written or oral and whether express or implied, and whether or not legally binding.
- M. “Customer” means any Person that is either a direct purchaser or who negotiates price on behalf of a direct purchaser of Terminal Business services relating to any Terminal Location from a Respondent or the Acquirer.
- N. “Direct Cost” means the cost of labor, goods and materials, travel, and other expenditures. The cost of any labor included in Direct Cost shall not exceed the hours of labor provided times the then-current average hourly wage rate, including benefits, for the employee providing such labor.
- O. “Divestiture Agreements” mean:
1. The “Equity Purchase Agreement by and among Buckeye Partners, L.P. and U.S. Venture, Inc.,” dated February 8, 2022, and all amendments, exhibits, attachments, agreements, and schedules thereto, attached to this Decision and Order as Nonpublic Appendix A; or
 2. Any other agreement between Respondents (or a Divestiture Trustee appointed pursuant to Section IX of this Order) and an Acquirer for the purchase of any of the Terminal Assets, and all amendments, exhibits, attachments, agreements, and schedules thereto.
- P. “Divestiture Date” means the date on which Respondents (or a Divestiture Trustee) close on the divestiture of the Terminal Assets as required by Section II of this Order.
- Q. “Divestiture Trustee” means the Person appointed by the Commission pursuant to Section IX of this Order.
- R. “Employee Information” means, to the extent permitted by law, the following information summarizing the employment history of each Terminal Business Employee that includes:
1. Name, job title or position, date of hire, and effective service date;
 2. Specific description of the employee’s responsibilities;
 3. Base salary or current wages;
 4. Most recent bonus paid, aggregate annual compensation for the relevant Respondent’s last fiscal year, and current target or guaranteed bonus, if any;
 5. Written performance reviews for the past three years, if any;

6. Employment status (*i.e.*, active or on leave or disability; full-time or part-time);
 7. Any other material terms and conditions of employment in regard to such employee that are not otherwise generally available to similarly situated employees; and
 8. At the Acquirer's option, copies of all employee benefit plans and summary plan descriptions (if any) applicable to the employee.
- S. "Excluded Assets" means the assets listed on Appendix B.
- T. "Governmental Authorization" means any license, registration, or permit issued, granted, given or otherwise made available by or under the authority of any governmental body or pursuant to any legal requirement.
- U. "Intellectual Property" means all intellectual property, including: (1) commercial names, assumed fictional business names, trade names, "doing business as" (d/b/a names), registered and unregistered trademarks, service marks and applications, and trade dress; (2) patents, patent applications and inventions and discoveries that may be patentable; (3) registered and unregistered copyrights in both published works and unpublished works; (4) rights in mask works; (5) know-how, trade secrets, confidential or proprietary information, Customer lists, software, technical information, data, process technology, plans, drawings, and blue prints; and (6) rights in internet web sites and internet domain names presently used.
- V. "Inventories" means all inventories of every kind and nature for sales related to the Terminal Business at any Terminal Locations.
- W. "Light Petroleum Product" means gasoline, diesel fuel (e.g., on-road and off-road), biodiesel, heating oil, and residual fuel.
- X. "Monitor" means any Person appointed by the Commission to serve as a monitor pursuant to the Orders.
- Y. "Orders" means this Decision and Order and the Order to Maintain Assets entered in this action.
- Z. "Person" means any individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture, or other entity or a governmental body.
- AA. "Relevant Area" means the area within a 60-mile radius of any Terminal Location.
- BB. "Terminal" means a facility that receives bulk quantities of any Light Petroleum Product by pipeline, railcar, or marine vessel, or directly from refining operations at the same site;

stores any Light Petroleum Product; and loads any Light Petroleum Product into pipelines, delivery trucks, railcar, or marine vessels.

- CC. “Terminal Assets” means all of Respondents’ rights, title, and interests in and to all property and assets, real, personal, or mixed, tangible and intangible, of every kind and description, wherever located, used in, or relating to the Terminal Business operated at the Terminal Locations, including all:
1. Real property interests (including fee simple interests and real property leasehold interests), including all easements, and appurtenances, together with all buildings and other structures, facilities, and improvements located thereon, owned, leased, or otherwise held;
 2. Tangible personal property, whether owned or leased, including machinery, equipment, tools, furniture, office equipment, computers, supplies, materials, vehicles, and gathering and transportation systems, together with all express or implied warranties by manufacturers, sellers or lessors and all maintenance records and operating manuals, including any tangible personal property removed and not replaced from any Terminal Location since the date of the announcement of the Acquisition;
 3. Inventories;
 4. Accounts receivable;
 5. Business Information;
 6. At the option of the Acquirer, all rights under any and all Contracts, and all outstanding offers to enter a Contract, and any and all solicitations to enter a Contract;
 7. Governmental Authorizations and all pending applications or renewals, to the extent transferable; and
 8. Intangible rights and property, including Intellectual Property, owned, used, or licensed (as licensor or licensee) by Respondents, going concern value, goodwill, email addresses telephone listings, and internet sites.

Provided, however, that the Terminal Assets shall not include any Excluded Assets.

- DD. “Terminal Business” means all business activities related to the Terminal Locations, including the temporary storage of Light Petroleum Products received via pipeline, marine vessel, tank trucks, rail, or transport trailers, and the re-delivery of such products from storage tanks into tank trucks, rail cars, transport trailers, or pipelines.
- EE. “Terminal Business Employee” means any full-time, part-time, or contract individual employed by any Terminal Location as of June 9, 2021, except to the extent any individual is no longer employed by Respondents.

FF. “Terminal Locations” means the following locations:

1. 3560 Well Road, Montgomery, Alabama 36108;
2. 217 Sweetwater Road North, Augusta, South Carolina 29860;
3. 222 Sweetwater Road North, Augusta, South Carolina 29860;
4. 650 Delmar Road, Spartanburg, South Carolina 29302; and
5. 2430 Pine Street Extension, Spartanburg, South Carolina 29302.

GG. “Transitional Assistance” means services and support as required by the Acquirer to facilitate the transfer of the Terminal Business and operation of the Terminal Assets, including services and support related to human resources, payroll, employee benefits, accounting and finance, information technology systems, transportation, logistics, storage, supply chain management, vendor relations, customer relations, marketing, research and development, engineering, quality control, environmental issues, customers, Contracts, Governmental Authorizations, and use of trademarks or trade names for transitional purposes.

II. Divestiture

IT IS FURTHER ORDERED that:

A. No later than 10 days after the Acquisition Date, Respondents shall divest the Terminal Assets related to the Terminal Locations, as ongoing Terminal Businesses, absolutely and in good faith, to U.S. Venture;

Provided, however, that if Business Information includes information (1) relating to other retained businesses of Respondents that cannot be segregated in a manner that preserves the usefulness of the information as it relates to the Terminal Assets or (2) where Respondents have a legal obligation to retain the original copies, then Respondents may provide copies of the Business Information (with redactions as appropriate) and shall provide the Acquirer access to the original materials if copies are insufficient for regulatory or evidentiary purposes.

B. If Respondents have divested the Terminal Assets to the Acquirer prior to the date this Order becomes final, and if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that:

1. The Acquirer is not acceptable as the acquirer of the Terminal Assets, then Respondents shall rescind the divestiture to the Acquirer within 5 days of notification, and shall divest the Terminal Assets no later than 180 days from the date this Order is issued, as on-going businesses, absolutely and in good faith, at no minimum price, to a Person that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission; or

2. The manner in which the divestiture to the Acquirer was accomplished is not acceptable, the Commission may direct Respondents, or appoint a Divestiture Trustee, to modify the manner of divestiture of the Terminal Assets as the Commission may determine is necessary to satisfy the requirements of this Order.
- C. Respondents shall deliver the Business Information to the Acquirer as soon as practicable after the Divestiture Date in a manner that ensures their completeness, accuracy, and usefulness and meets the reasonable requirements of the Acquirer.
- D. Respondents shall obtain, no later than the Divestiture Date and, at their sole expense, all Consents from Persons and all Governmental Authorizations that are necessary to effect the complete transfer and divestiture of the Terminal Business, Terminal Assets, and Terminal Locations to the Acquirer and for the Acquirer to operate any aspect of the Terminal Business, Terminal Assets, and Terminal Locations.
- E. Prior to the Acquisition Date, Respondents shall provide the Acquirer with the opportunity to review all Contracts, including but not limited to, Customer Contracts, related to the Terminal Businesses at the Terminal Locations for the purposes of Acquirer's determination of whether to assume such Contracts;

Provided, however, that in cases in which any Contract also relates to assets other than the Terminal Assets, Respondents shall, at the Acquirer's option, assign, or otherwise make available to the Acquirer all such rights under the Contract or agreement as are related to the specified Terminal Business, but concurrently may retain similar rights for the purposes of the non-Terminal Assets.
- F. No later than 10 days after the Divestiture Date, Respondents shall designate employees of the Respondents knowledgeable about the Terminal Business to assist the Acquirer to transfer and integrate the Terminal Business.
- G. Respondents shall cooperate and assist the Acquirer (or any other Person with whom Respondents engage in negotiations to acquire the Terminal Assets) with a due diligence investigation of the Terminal Assets and the Terminal Business, including by providing sufficient and timely access to all Employee Information and other information customarily provided as part of a due diligence process and affording the Acquirer and its representatives (including prospective lenders and their representatives) full and free access, during regular business hours, to the personnel, assets, Contracts, and Business Information, with such rights of access to be exercised in a manner that does not unreasonably interfere with the operations of Respondents.

III. Divestiture Agreement

IT IS FURTHER ORDERED that:

- A. The Divestiture Agreement shall be incorporated by reference into this Order and made a part hereof, and any failure by Respondents to comply with the terms of the Divestiture

Agreement shall constitute a violation of this Order; *provided, however*, that the Divestiture Agreement shall not limit, or be construed to limit, the terms of this Order. To the extent any provision in the Divestiture Agreement varies from or conflicts with any provision in this Order such that Respondents cannot fully comply with both, Respondents shall comply with the Order.

- B. Respondents shall not modify or amend the terms of the Divestiture Agreement after the Commission issues this Order without the prior approval of the Commission, except as otherwise provided in Commission Rule 2.41(f)(5), 16 C.F.R. § 2.41(f)(5).

IV. Transitional Assistance

IT IS FURTHER ORDERED that

- A. Until Respondents have transferred all Business Information included in the Terminal Assets to the Acquirer, Respondents shall ensure that the Business Information is maintained and updated in the ordinary course of business and shall provide the Acquirer with access to Business Information (wherever located and however stored) that Respondents have not yet transferred to the Acquirer, and to employees who possess the Business Information.
- B. At the option of the Acquirer, in a timely manner, Respondents shall provide the Acquirer with Transitional Assistance sufficient to (1) transfer efficiently the Terminal Assets to the Acquirer, and (2) assist the Acquirer in operating the acquired Terminal Assets in a manner that is equivalent in all material respects to the manner in which they were operated prior to the Acquisition.
- C. Respondents shall provide Transitional Assistance:
 - 1. As set forth in a Divestiture Agreement, or as otherwise reasonably requested by the Acquirer (whether before or after the Divestiture Date);
 - 2. At the price set forth in the Divestiture Agreement, or if no price is set forth, at Direct Cost; and
 - 3. For a period sufficient to meet the requirements of Section IV, which shall be, at the option of the Acquirer, for up to 12 months after the Divestiture Date;

Provided, however, that within 15 days after a request by the Acquirer, Respondents shall file with the Commission a written request to extend the time period for providing Transitional Assistance for up to an additional 180 days.

- D. Respondents shall allow the Acquirer to terminate, in whole or part, any Transitional Assistance at any time upon reasonable notice and without cost or penalty.
- E. Respondents shall not cease providing Transitional Assistance due to a breach by the Acquirer of a Divestiture Agreement, and shall not limit any damages (including indirect,

special, and consequential damages) that the Acquirer would be entitled to receive in the event of Respondent's breach of any agreement relating to Transitional Assistance.

V. Employees

IT IS FURTHER ORDERED that:

- A. Until 6 months after the Divestiture Date, Respondents shall cooperate with and assist the Acquirer of the Terminal Assets to evaluate independently and offer employment to any Terminal Business Employee.
- B. Until Respondents have fulfilled their obligation to provide Transitional Assistance pursuant to Paragraph IV.C, Respondents shall:
 1. No later than 10 days after a request from the Acquirer, provide to the Acquirer a list of all Terminal Business Employees and provide Employee Information for each.
 2. No later than 10 days after a request from the Acquirer, provide the Acquirer an opportunity to privately interview any Terminal Business Employee outside the presence or hearing of any employee or agent of any Respondent, and to make offers of employment to any of the Terminal Business Employees.
 3. Remove and not enter into any impediments within the control of Respondents that may deter Terminal Business Employees from accepting employment with the Acquirer, including removal of any non-compete or confidentiality provisions of employment or other contracts with Respondents that may affect the ability or incentive of those individuals to be employed by the Acquirer, and shall not make any counteroffer to a Terminal Business Employee who receives an offer of employment from the Acquirer; *provided, however*, that nothing in this Order shall be construed to require Respondents to terminate the employment of any employee or prevent Respondents from continuing the employment of any employee;
 4. Continue to provide Terminal Business Employees with compensation and benefits, including regularly scheduled raises and bonuses and the vesting of benefits, unless and until hired by the Acquirer;
 5. Provide reasonable financial incentives for Terminal Business Employees to continue in their positions, and as may be necessary, to facilitate the employment of such Terminal Business Employees by an Acquirer, unless and until hired by the Acquirer; and
 6. Not interfere, directly or indirectly, with the hiring or employing by the Acquirer of any Terminal Business Employee, not offer any incentive to such employees to

decline employment with the Acquirer, and not otherwise interfere with the recruitment of any Terminal Business Employee by the Acquirer.

- C. Respondents shall not, for a period of 6 months following the Divestiture Date, directly or indirectly, solicit or otherwise attempt to induce any Person employed by the Acquirer to terminate his or her employment with the Acquirer; *provided, however*, Respondents may:
1. Hire any such Person whose employment has been terminated by the Acquirer;
 2. Advertise for employees in newspapers, trade publications, or other media, or engage recruiters to conduct general employee search activities, in either case not targeted specifically at one or more Person employed by the Acquirer; or
 3. Hire a Person who has applied for employment with Respondents, as long as such application was not solicited or induced in violation of Section V.
- D. Respondents shall not enforce any noncompete provision or noncompete agreement against any Person seeking employment from or otherwise doing business with the Acquirer related to the Terminal Business at the Terminal Locations.

VI. Asset Maintenance

IT IS FURTHER ORDERED that Respondents shall, subject to their obligations under the Order to Maintain Assets, ensure that the Terminal Assets are operated and maintained in the ordinary course of business consistent with past practices until such assets are fully transferred to the Acquirer, and shall:

- A. Take all actions necessary to maintain the full economic viability, marketability, and competitiveness of the Terminal Business and related Terminal Assets, to minimize the risk of any loss of their competitive potential, to operate them in a manner consistent with applicable laws and regulations, and to prevent their destruction, removal, wasting, deterioration, or impairment (other than as a result of ordinary wear and tear);
- B. Not sell, transfer, encumber, or otherwise impair the Terminal Business and related Terminal Assets (other than in the manner prescribed in the Orders or the Acquisition), or take any action that lessens their full economic viability, marketability, or competitiveness;
- C. Not terminate the operations of the Terminal Business and related Terminal Assets, and shall conduct or cause to be conducted the operations of the Terminal Business and related Terminal Assets in the ordinary course of business and in accordance with past practice (including performing regular repair and maintenance, and maintaining inventory levels) and as may be necessary to preserve the full economic viability, ongoing operations, marketability, and competitiveness of the Terminal Business and related Terminal Assets;

- D. Use best efforts to preserve the existing relationships with suppliers, customers, employees, governmental authorities, vendors, landlords, and others having business relationships with the Terminal Business and related Terminal Assets, including:
1. Not terminating, canceling, renewing, or amending any Contract, except as consistent with past practices; and
 2. Not entering any Contract that would restrain or restrict the ability of the Acquirer to compete against Respondents;

Provided, however, that Respondents may take actions that the Acquirer has requested or agreed to in writing and that have been approved in advance by Commission staff, in all cases to facilitate the Acquirer's acquisition of the Terminal Assets and consistent with the purposes of this Order and the Order to Maintain Assets.

VII. Confidential Information

IT IS FURTHER ORDERED that:

- A. Respondents shall (x) not disclose (including as to Respondents' employees) and (y) not use, for any reason or purpose, any Confidential Business Information received or maintained by Respondents, *provided, however,* that Respondents may disclose or use such Confidential Business Information in the course of:
1. Performing their obligations or as permitted under the Orders or any Divestiture Agreement; or
 2. Complying with financial reporting requirements, obtaining legal advice, prosecuting; or defending or enforcing legal claims, investigations, or actions threatened or brought against the Terminal Assets, any Terminal Locations, or Terminal Business, or as required by law or regulation, including any applicable securities exchange rules or regulations.
- B. If Respondents disclose or use any Confidential Information in a manner permitted by Paragraph VII.A of this Order, Respondents shall only use or disclose the Confidential Information (1) to the extent required, (2) to those employees or Persons who require such information for the purposes permitted under Paragraph VII.A, and (3) after such employees or Persons have signed an agreement to maintain the confidentiality of such information.
- C. Respondents shall enforce the terms of this Section VII and take necessary actions to ensure that their employees and other Persons receiving Confidential Information comply with the terms of this Section VII, including implementing access and data controls, training its employees, and other actions that Respondents would take to protect their own trade secrets and proprietary information.

VIII. Monitor

IT IS FURTHER ORDERED that:

- A. The Commission appoints The Claro Group as the Monitor to observe and report on Respondents' compliance with their obligations as set forth in the Orders.
- B. Respondents and the Monitor may enter into an agreement relating to the Monitor's services. Any such agreement:
 - 1. Shall be subject to the approval of the Commission;
 - 2. Shall not limit, and the signatories shall not construe it to limit, the terms of this Section VIII or Section VI of the Order to Maintain Assets ("Monitor Sections"), and to the extent any provision in the agreement varies from or conflicts with any provision in the Monitor Sections, Respondents and the Monitor shall comply with the Monitor Sections; and
 - 3. Shall include a provision stating that the agreement does not limit, and the signatories shall not construe it to limit, the terms of this Order in this matter, and to the extent any provision in the agreement varies from or conflicts with any provision in this Order, Respondents and the Monitor shall comply with this Order.
- C. The Monitor shall:
 - 1. Have the authority to monitor Respondents' compliance with the obligations set forth in this Order;
 - 2. Act in consultation with the Commission or its staff;
 - 3. Serve as an independent third party and not as an employee or agent of Respondents or of the Commission;
 - 4. Serve without bond or other security;
 - 5. At the Monitor's option, employ such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities;
 - 6. Enter into a non-disclosure or other confidentiality agreement with the Commission related to Commission materials and information received in connection with the performance of the Monitor's duties and require that each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants shall also enter into a non-disclosure or other confidentiality agreement with the Commission;

7. Notify staff of the Commission, in writing, no later than 5 days in advance of entering into any arrangement that creates a conflict of interest, or the appearance of a conflict of interest, including a financial, professional, or personal conflict. If the Monitor becomes aware of a such a conflict only after it has arisen, the Monitor shall notify the Commission as soon as the Monitor becomes aware of the conflict;
8. Report in writing to the Commission concerning Respondents' compliance with this Order on a schedule as determined by Commission staff, and at any other time requested by the staff of the Commission; and
9. Unless the Commission or its staff determine otherwise, the Monitor shall serve until Commission staff determines that Respondents have satisfied all obligations under Sections II, IV, and VI of this Order, and files a final report.

D. Respondents shall:

1. Cooperate with and assist the Monitor in performing his or her duties for the purpose of reviewing Respondents' compliance with their obligations under this Order, including as requested by the Monitor, (a) providing the Monitor full and complete access to personnel, information and facilities; and (b) making such arrangements with third parties to facilitate access by the Monitor;
2. Not interfere with the ability of the Monitor to perform his or her duties pursuant to this Order;
3. Pay the Monitor's fees and expenses as set forth in an agreement approved by the Commission, or if such agreement has not been approved, pay the Monitor's customary fees, as well as expenses the Monitor incurs performing his or her duties under this Order, including expenses of any consultants, accountants, attorneys, and other representatives and assistants that are reasonably necessary to assist the Monitor in carrying out his or her duties and responsibilities;
4. Not require the Monitor to disclose to Respondents the substance of the Monitor's communications with the Commission or any other Person or the substance of written reports submitted to the Commission pursuant to this Order; and
5. Indemnify and hold the Monitor harmless against any loss, claim, damage, liability, and expense (including attorneys' fees and out of pocket costs) that arises out of, or is connected with, a claim concerning the performance of the Monitor's duties under this Order, unless the loss, claim, damage, liability, or expense results from gross negligence or willful misconduct by the Monitor.

E. Respondents may require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to enter into a customary

confidentiality agreement, so long as the agreement does not restrict the Monitor's ability to access personnel, information, and facilities or provide information to the Commission, or otherwise observe and report on the Respondents' compliance with this Order.

F. If the Monitor resigns or the Commission determines that the Monitor has ceased to act, has failed to act diligently, or is otherwise unable to continue serving as a Monitor due to the existence of a conflict or other reasons, the Commission may appoint a substitute Monitor. The substitute Monitor shall be afforded all rights, powers, and authorities and shall be subject to all obligations of the Monitor Sections of this Order. The Commission shall select the substitute Monitor, subject to the consent of the Respondents.

Respondents:

1. Shall not unreasonably withhold consent to the appointment of the selected substitute Monitor;
2. Shall be deemed to have consented to the selection of the proposed substitute Monitor if, within 10 days of notice by staff of the Commission of the identity of the proposed substitute Monitor, Respondents have not opposed in writing, including the reasons for opposing, the selection of the proposed substitute Monitor; and
3. May enter into an agreement with the substitute Monitor relating to the substitute Monitor's services that either (a) contains substantially the same terms as the Commission-approved agreement referenced in Paragraph VIII.B; or (b) receives Commission approval.

G. The Commission may on its own initiative or at the request of the Monitor issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Order.

IX. Divestiture Trustee

IT IS FURTHER ORDERED that:

- A. If Respondents have not fully complied with the obligations to assign, grant, license, divest, transfer, deliver, or otherwise convey the Terminal Assets as required by this Order, the Commission may appoint a trustee ("Divestiture Trustee") to assign, grant, license, divest, transfer, deliver, or otherwise convey these assets in a manner that satisfies the requirements of this Order.
- B. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a Divestiture Trustee in such action to assign, grant, license, divest, transfer, deliver, or otherwise convey these assets. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Section shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief

available to it, including a court-appointed Divestiture Trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondents to comply with this Order.

- C. The Commission shall select the Divestiture Trustee, subject to the consent of Respondents which consent shall not be unreasonably withheld. The Divestiture Trustee shall be a Person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed Divestiture Trustee within 10 days after notice by the staff of the Commission to Respondents of the identity of any proposed Divestiture Trustee, Respondents shall be deemed to have consented to the selection of the proposed Divestiture Trustee.
- D. Not later than 10 days after the appointment of a Divestiture Trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the relevant divestitures required by this Order. Any failure by Respondents to comply with a trust agreement approved by the Commission shall be a violation of this Order.
- E. If a Divestiture Trustee is appointed by the Commission or a court pursuant to Section IX, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:
1. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to assign, grant, license, divest, transfer, deliver, or otherwise convey the assets that are required by this Order to be assigned, granted, licensed, divested, transferred, delivered, or otherwise conveyed;
 2. The Divestiture Trustee shall have one year from the date the Commission approves the trustee agreement described herein to accomplish the divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the one year period, the Divestiture Trustee has submitted a plan of divestiture or the Commission believes that the divestitures can be achieved within a reasonable time, the divestiture period may be extended by the Commission,

Provided, however, the Commission may extend the divestiture period only 2 times;
 3. Subject to any demonstrated legally recognized privilege, the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be assigned, granted, licensed, divested, delivered, or otherwise conveyed by this Order and to any other relevant information, as the Divestiture Trustee may request. Respondents shall develop

such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestitures. Any delays in divestitures caused by Respondents shall extend the time for divestitures under Section IX in an amount equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court;

4. The Divestiture Trustee shall use commercially reasonable best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest expeditiously and at no minimum price. The divestitures shall be made in the manner and to Acquirers that receive the prior approval of the Commission as required by this Order,

Provided, however, if the Divestiture Trustee receives bona fide offers from more than one acquiring person for a divestiture, and if the Commission determines to approve more than one such acquiring person for the divestiture, the Divestiture Trustee shall divest to the acquiring person selected by Respondents from among those approved by the Commission,

Provided further, however, that Respondents shall select such person within 5 days of receiving notification of the Commission's approval;

5. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission of the account of the Divestiture Trustee, including fees for the Divestiture Trustee's services, all remaining monies shall be paid at the direction of the Respondents, and the Divestiture Trustee's power shall be terminated. The compensation of the Divestiture Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order;
6. Respondents shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages,

liabilities, or expenses result from gross negligence or willful misconduct by the Divestiture Trustee;

7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the Terminal Assets required to be divested by this Order;
8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every 30 days concerning the Divestiture Trustee's efforts to accomplish the divestiture; and
9. Respondents may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement,

Provided, however, that such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.

- F. The Commission may, among other things, require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission materials and information received in connection with the performance of the Divestiture Trustee's duties.
- G. If the Commission determines that a Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manner as provided in Section IX.
- H. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures and other obligations or action required by this Order.

X. Prior Approval

IT IS FURTHER ORDERED that Respondents IFM Global and Buckeye shall not, without prior approval of the Commission, acquire directly or indirectly, through subsidiaries or otherwise, any leasehold, ownership interest, in whole or in part, in any Terminal in a Relevant Area.

XI. Prior Approval for Acquirer

IT IS FURTHER ORDERED that:

- A. For a period of 3 years after the Divestiture Date, U.S. Venture or any other Acquirer shall not sell, or otherwise convey, through subsidiaries or otherwise, without the prior approval of the Commission, any of the Terminal Locations that were divested pursuant to Section II, to any Person; and

- B. For a period of 7 years after the term of Paragraph XI.A ends, U.S. Venture or any other Acquirer shall not sell, or convey, through subsidiaries or otherwise, without the prior approval of the Commission, any of the Terminal Locations that were divested pursuant to Section II, to any Person who owns, directly or indirectly, through subsidiaries or otherwise, leasehold, ownership interest, or any other interest, in whole or in part, any Terminal in a Relevant Area,

Provided, however, U.S. Venture is not required to obtain prior approval of the Commission under this Section XI for a change of control, merger, reorganization, or sale of all or substantially all of its business, or the U.S. Oil division.

XII. Compliance Reports

IT IS FURTHER ORDERED that:

- A. Respondents IFM Global and Buckeye shall:
1. Notify Commission staff via email at bccompliance@ftc.gov of the Acquisition Date no later than 5 days after the Acquisition Date; and
 2. Submit each complete Divestiture Agreement to the Commission at ElectronicFilings@ftc.gov and bccompliance@ftc.gov no later than 30 days after the Divestiture Date.
- B. Respondents shall submit verified written reports (“compliance reports”) in accordance with the following:
1. Respondents IFM Global and Buckeye shall submit:
 - a. interim compliance reports 30 days after this Order is issued, and every 30 days thereafter until Respondents have fully complied with the provisions of Sections II and VI of this Order;
 - b. annual compliance reports one year after the date this Order is issued, and annually thereafter for the next nine years on the anniversary of that date; and
 - c. additional compliance reports as the Commission or its staff may request.
 2. Respondent Magellan shall submit:
 - a. interim compliance reports 30 days after this Order is issued, and every 30 days thereafter until Respondent Magellan has fully complied with the provisions of Sections II and VI of this Order; and
 - b. additional compliance reports as the Commission or its staff may request.

3. Each compliance report shall contain sufficient information and documentation to enable the Commission to determine independently whether Respondents are in compliance with the Order. Conclusory statements that Respondents have complied with its obligations under this Order are insufficient. Respondents shall include in their reports, among other information or documentation that may be necessary to demonstrate compliance, a full description of the measures Respondents have implemented or plans to implement to ensure that they have complied or will comply with each section of the Order.
4. For a period of 5 years after filing a compliance report, Respondents shall retain all material written communications with each party identified in each compliance report and all non-privileged internal memoranda, reports, and recommendations concerning fulfilling their obligations under this Order during the period covered by such compliance report. Respondents shall provide copies of these documents to Commission staff upon request.
5. Respondents shall verify each compliance report in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to perform this function. Respondents shall file their compliance reports with the Secretary of the Commission at ElectronicFilings@ftc.gov and to the Compliance Division at bccompliance@ftc.gov, as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a). In addition, Respondents shall provide a copy of each compliance report to the Monitor if the Commission has appointed one in this matter.

XIII. Change in Respondents

IT IS FURTHER ORDERED that Respondent IFM Global Infrastructure Fund and Respondent Buckeye Partners L.P. shall notify the Commission at least 30 days prior to:

- A. Any proposed dissolution of IFM Global Infrastructure Fund and Buckeye Partners L.P., respectively;
- B. Any proposed acquisition, merger or consolidation of IFM Global Infrastructure Fund and Buckeye Partners L.P., respectively; or
- C. Any other change in Respondent IFM Global and Respondent Buckeye., respectively, including assignment and the creation, sale, or dissolution of subsidiaries, if such change may affect compliance obligations arising out of this Order.

XIV. Access

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and 5 days' notice to the relevant Respondent, made to its principal place of business as identified in this Order, registered office of its United States subsidiary, or its headquarters

office, the notified Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of the Respondent and in the presence of counsel, to all facilities and access to inspect and copy all business and other records and all documentary material and electronically stored information as defined in Commission Rules 2.71(a)(1) and (2), 16 C.F.R. § 2.71(a)(1) and (2), in the possession or under the control of the Respondent related to compliance with this Order, which copying services shall be provided by the Respondent at the request of the authorized representative of the Commission and at the expense of the Respondent; or
- B. To interview officers, directors, or employees of the Respondent, who may have counsel present, regarding such matters.

XV. Purpose

IT IS FURTHER ORDERED that the purpose of this Order is to remedy the harm to competition the Commission alleged in its Complaint and ensure that the Acquirer can operate the Terminal Assets in a manner equivalent in all material respects to the manner in which Respondent Magellan operated the Terminal Assets at the Terminal Locations prior to the Acquisition.

XVI. Term

IT IS FURTHER ORDERED that this Order shall terminate 10 years from the date it is issued.

By the Commission.

April J. Tabor
Secretary

SEAL:
ISSUED: May 31, 2022

NONPUBLIC APPENDIX A

Divestiture Agreements

[Redacted From the Public Record Version, But Incorporated by Reference]

APPENDIX B

Excluded Assets

1. Respondent Magellan's product testing lab and associated equipment and business located at 1090 Sunshine Road, Kansas City Kansas 66115.
2. Respondent Magellan's master agreements (including requests for services issued thereunder) and purchase orders with contractors, vendors, and suppliers for facility maintenance and ancillary services.
3. Respondent Magellan's butane system blending procedures and configurations, including related intellectual property, particularly but not exclusively U.S. Patent No. 9,080,111 (2015).
4. Enterprise software that Respondent Magellan uses primarily to manage and account for businesses other than the relevant businesses to be divested.
5. Computer hardware and software that can be readily replaced by sources other than Respondent Magellan, including IBM x3100 M5s, HP EliteDesks, OptiPlex 5040s, and ThinkSystem ST250s.
6. Surety bonds under which Respondent Magellan is the principal.
7. Insurance policies inuring to the benefit of Respondent Magellan.
8. Margin deposits held or credited by brokers or other commercial intermediaries in favor of Respondent Magellan.