UNITED STATES OF AMERICA
BEFORE 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.**	**Docket No. C-4765**

I. COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act ("FTC Act"), and its authority thereunder, the Federal Trade Commission ("Commission"), having reason to believe that Respondent IFM Global Infrastructure Fund, the ultimate parent entity of Respondent Buckeye Partners, L.P., has entered into an agreement to acquire 26 refined petroleum products terminals wholly owned by Respondent Magellan Midstream Partners, L.P., that such acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows.

II. RESPONDENTS

1. Respondent IFM Global Infrastructure Fund ("IFM Global") is a Cayman Islands Unit Trust, headquartered in the Cayman Islands.

2. Respondent Buckeye Partners, L.P. ("Buckeye") is doing business under and by virtue of the laws of the state of Delaware with its offices and principal place of business in Houston, Texas. IFM Global is the ultimate parent entity of Buckeye.

3. Respondent Buckeye is, and at all times relevant herein, has been engaged in, among other things, providing midstream logistics solutions, primarily consisting of pipeline transportation, storage, and throughput of light petroleum products ("LPPs"), which include gasoline and distillates. Buckeye owns and operates LPP terminals in Alabama and South Carolina.

4. Respondent Magellan Midstream Partners, L.P. ("Magellan") is a publicly-traded limited partnership organized, existing, and doing business under and by virtue of the laws of the state of Delaware, with its principal place of business in Tulsa, Oklahoma.

5. Respondent Magellan is, and at all times relevant herein, has been engaged in, among other things, transporting, storing, and distributing refined petroleum products and crude oil, and operating LPP terminals in Alabama and South Carolina.

III. JURISDICTION

6. Each Respondent, either directly or through its subsidiaries, is, and at all times relevant herein, has been engaged in commerce, as "commerce" is defined in Section 1 of the Clayton Act as amended, 15 U.S.C. § 12, and Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

7. The acquisition is subject to Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

IV. THE PROPOSED ACQUISITION

8. Pursuant to an Equity Purchase Agreement by and between Buckeye and a Magellan affiliate dated June 9, 2021, Buckeye proposes to acquire 26 LPP terminals wholly owned by Magellan (the "Acquisition") for approximately $435 million.

V. THE RELEVANT SERVICE MARKET

9. For purposes of this complaint, the relevant lines of commerce in which to analyze the effects of the Acquisition are terminaling services for all LPPs (which includes gasoline and distillate fuel) and terminaling services specifically for gasoline.

10. Terminals are critical to the efficient distribution of LPPs. Terminals generally consist of storage tanks and loading racks that pump fuel into tanker trucks for further delivery. Terminals receive bulk volumes of LPPs via pipeline, hold LPPs in storage tanks, and load smaller quantities onto tanker trucks. Tanker trucks transport LPPs from the terminals to retail locations and end-use customers. Terminaling services include the cluster of services related to the off-loading, temporary storage, and dispensing of LPPs into trucks.

11. To provide terminaling services for gasoline, terminals generally must have specialized equipment, including vapor recovery units, tanks with internal floating roofs, and the ability to blend gasoline with ethanol. While gasoline-capable storage tanks may also handle distillates, the reverse is generally not possible without added expense, due to the more stringent regulatory requirements for the storage and handling of gasoline.

12. There is no cost-effective substitute for terminals and the services they provide. The high costs of trucking LPPs over long distances means that terminals generally must be located relatively close to the customers they serve. Trucking large volumes of LPPs over long distances is not an economical alternative to the services terminals provide.

VI. THE RELEVANT GEOGRAPHIC MARKETS

13. There are three relevant geographic markets in which to analyze the Acquisition: (1) North Augusta, South Carolina; (2) Spartanburg, South Carolina; and (3) Montgomery, Alabama. Each relevant market includes a cluster of LPP terminals capable of receiving LPPs from two major refined products pipeline systems serving the southeast United States. The area that a particular terminal can serve is limited by several factors, including the density of retail outlets served from the terminal, trucking costs relating to labor and fuel, driving times and distances, loading and waiting times at the terminal, and the relative price differences of LPPs offered at alternative terminals.

VII. MARKET STRUCTURE

North Augusta Terminaling Services Markets

14. Three firms, including Buckeye and Magellan, operate terminals in the North Augusta, South Carolina market. The Acquisition, if consummated, would reduce the number of firms in the relevant market from three to two.

15. The Acquisition would significantly increase market concentration in the North Augusta, South Carolina market. Post-Acquisition, the markets for terminaling services for all LPPs and terminaling services for gasoline would be highly concentrated under the Horizontal Merger Guidelines, and Buckeye would control a significant share of both total LPP storage capacity and gasoline terminal storage capacity in this relevant geographic market, leaving only one other remaining player.

16. The Acquisition would eliminate the close competition between Buckeye and Magellan in North Augusta, South Carolina and increase the likelihood of collusive or coordinated interaction between the remaining competitors.

Spartanburg Terminaling Services Markets

17. Seven firms, including Buckeye and Magellan, operate terminals in the Spartanburg, South Carolina market. Buckeye and Magellan terminals are the two largest in terms of total LPP storage capacity in the relevant market. Buckeye would control almost half of gasoline terminal capacity in Spartanburg post-Acquisition.

18. The Acquisition, if consummated, would significantly increase market concentration in the Spartanburg, South Carolina market. Post-Acquisition, the markets for terminaling services for all LPPs and terminaling services for gasoline would be highly concentrated, and Buckeye would control the majority of LPP terminal storage capacity and nearly half of gasoline terminal storage capacity in this relevant geographic market.

19. The Acquisition would also reduce the number of independent terminal facilities in the Spartanburg market. Both Buckeye and Magellan are independent commercial terminal operators. Neither Buckeye nor Magellan owns or sells any LPPs to retail or commercial customers in the relevant market. In the Spartanburg market, Buckeye and Magellan derive their revenue solely from the provision of terminaling services, including receipt and throughput of LPPs. Loss of access to these independent terminals would reduce the number of terminaling options for third-party customers in the Spartanburg market and increase prices for terminaling services.

20. The Acquisition, if consummated, would eliminate the close competition between Buckeye and Magellan in the Spartanburg, South Carolina market and increase the likelihood of collusive or coordinated interaction between the remaining competitors.

Montgomery Terminaling Services Markets

21. Six firms, including Buckeye and Magellan, provide LPP terminaling services in the Montgomery, Alabama market. Five firms, including Buckeye and Magellan, provide gasoline terminaling services in this area. The Acquisition, if consummated, would significantly increase market concentration, leading to a highly concentrated market for gasoline terminaling services and a moderately concentrated market for LPP terminaling services.

22. The Acquisition would also reduce the number of independent terminal facilities in the Montgomery market. The reduction would potentially leave only two independent firms for gasoline terminaling services after the Acquisition. Both Buckeye and Magellan are independent commercial terminal operators. Neither Buckeye nor Magellan owns or sells any light petroleum products to retail or commercial customers in this market. Loss of access to

these independent terminals would reduce the number of terminaling options for third-party customers in the Montgomery market and increase prices for terminaling services.

23. The Acquisition, if consummated, would eliminate the close competition between Buckeye and Magellan in the Montgomery, Alabama market and increase the likelihood of collusive or coordinated interaction between the remaining competitors.

VIII. EFFECTS OF THE ACQUISITION

24. The effects of the Acquisition, if consummated, may be to substantially lessen competition in each relevant market in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, in the following ways, among others:

a. by increasing the likelihood that Respondent Buckeye would unilaterally exercise market power in each relevant market;

b. by eliminating substantial competition between Respondents Buckeye and Magellan in each relevant market; and

c. by increasing the likelihood of collusive or coordinated interaction between any remaining competitors in the relevant markets.

25. The ultimate effect of the Acquisition would be to increase the likelihood that prices for LPP terminaling services and gasoline terminaling services would rise above pre-Acquisition levels, or that there would be a decrease in the quality or availability of LPP terminaling services and gasoline terminaling services in each relevant geographic market.

IX. LACK OF COUNTERVAILING FACTORS

26. Entry into the relevant markets would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects arising from the Acquisition. Barriers to entry are significant and include high sunk costs associated with the construction of a new terminal and the time required to design, build, and permit a new facility.

27. Respondents have not substantiated merger-specific, verifiable, and cognizable efficiencies that likely would be sufficient to reverse the Acquisition's potential to harm customers in the market for LPP terminaling services in the relevant geographic markets.

X. VIOLATIONS CHARGED

28. The Equity Purchase Agreement to acquire 26 Magellan LPP terminals described in Paragraph 8 constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

29. The Acquisition described in Paragraph 8, if consummated, would constitute a violation 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.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this thirty-first day of May 2022, issues its Complaint against Respondent.

By the Commission.

April J. Tabor
Secretary

SEAL: