

**ANALYSIS OF PROPOSED AGREEMENT CONTAINING CONSENT ORDER
TO AID PUBLIC COMMENT**

*In the Matter of Buckeye Partners, L.P., and Shell Oil Company,
File No. 041-0162*

The Federal Trade Commission, subject to its final approval, has accepted for public comment an Agreement Containing Consent Order (“Proposed Order”) with Buckeye Partners, L.P. (“Buckeye”) and Shell Oil Company (“Shell”), which is designed to guard against possible anticompetitive effects that could result from the transaction, as originally proposed.

On June 30, 2004, Buckeye and Shell entered into a Purchase and Sale Agreement in which Buckeye proposed to acquire a package of refined petroleum pipeline and terminal assets from Shell for approximately \$530 million. Included in the assets to be acquired was a Shell refined petroleum terminal in Niles, Michigan. In response to competitive concerns raised by staff, the parties subsequently proposed a modified transaction that excludes the Niles, Michigan terminal from the assets to be acquired. The Proposed Order, if accepted by the Commission, would settle charges that the acquisition, as originally proposed, may have substantially lessened competition in the market for the terminaling of gasoline, diesel fuel, and other light petroleum products in the area within fifty miles of Niles, Michigan.

The Proposed Order has been placed on the public record for thirty days for interested persons to comment. Comments received during this thirty day period will become part of the public record. After thirty days, the Commission will again review the Proposed Order and the comments received and will decide whether it should withdraw the Proposed Order or make the

sufficient to deter or counteract the anticompetitive effects of the original proposed acquisition.

The proposed complaint alleges that the acquisition, if consummated as originally proposed, may have led to a substantial lessening of competition in the supply of terminaling services for gasoline, diesel, and other light petroleum products in the Niles Area. The acquisition as originally proposed may have substantially increased concentration in a market that is already highly concentrated. The complaint further alleges competitive harm could result from the elimination of direct competition between Buckeye and Shell in the supply of terminaling services in the Niles Area, and from the increased likelihood of collusion or coordinated interaction between the remaining competitors in the relevant market.

Terms of the Proposed Consent Order

The Proposed Order requires Buckeye to provide prior notification to the Commission of an acquisition of any interest in the Niles terminal, for a period of ten years. The Proposed Order requires Shell to provide prior notification to the Commission of a sale or transfer of any interest in the Niles terminal, for a period of ten years. These provisions require Buckeye and Shell to comply with premerger notification and waiting periods similar to those found in the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a. (“HSR”).

Consistent with the Commission’s Statement of Policy Concerning Prior Approval and Prior Notice Provisions, 60 Fed. Reg. 39,745 (Aug. 3, 1995), the Proposed Order ensures that the Commission will have the appropriate mechanism to review a proposed sale of the Niles terminal by Shell, or a proposed acquisition of the Niles terminal by Buckeye, that may raise antitrust concerns but would not be reportable under HSR. The Proposed Order affords the Commission the opportunity to guard against such potentially anticompetitive transactions.

By accepting the Proposed Order, subject to final approval, the Commission anticipates that the competitive problem alleged in the Complaint will be resolved. The purpose of this analysis is to invite public comment concerning the Proposed Order to aid the Commission in its determination of whether it should make final the Proposed Order contained in the agreement. This analysis is not intended to constitute an official interpretation of the Proposed Order or to modify its terms in any way.