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UNITED STATES OF AMERICA

hereby makes the following jurisdictional findings and enters the following Decision and Order (“Order”):

1. Respondent Tesoro Corporation is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware, with its office and principal place of business located at 19100 Ridgewood Parkway, San Antonio, Texas 78259.
2. Respondent Tesoro Logistics Operations LLC is a limited liability company organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware, with its office and principal place of business located at 19100 Ridgewood Parkway, San Antonio, Texas 78259. Tesoro Logistics Operations LLC is an indirect subsidiary of Tesoro Corporation.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents and the proceeding is in the public interest.

ORDER

I.

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

- A. “Tesoro Corporation” means Tesoro Corporation, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates in each case controlled by Tesoro Corporation (including Tesoro Logistics Operations LLC), and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. “Tesoro Logistics Operations LLC” means Tesoro Logistics Operations LLC, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates in each case controlled by Tesoro Logistics Operations LLC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. “Commission” means the Federal Trade Commission.
- D. “Acquirer” means the Person identified in Paragraph II.A.1. of this Order.
- E. C.

- G. “Confidential Information” means any and all of the following information:
1. all information that is a trade secret under applicable trade secret or other law;
 2. all information concerning product specifications, data, know-how, formulae, compositions, processes, designs, sketches, photographs, graphs, drawings, samples, inventions and ideas, past, current and planned research and development, current and planned manufacturing or distribution methods and processes, customer lists, current and anticipated customer requirements, price lists, market studies, business plans, computer hardware, software and computer software, and database technologies, systems, structures, and architectures;
 3. all information concerning the relevant business (which includes historical and current financial statements, financial projections and budgets, tax returns and accountants’ materials, historical, current, and projected sales, capital spending budgets and plans, business plans, strategic plans, marketing and advertising plans, publications, client and customer lists and files, contracts, and the names and backgrounds of key personnel and personnel training techniques and materials);

- L. “Boise Terminal Assets” means all of Respondents’ right, title, and interest in and to all property and assets, real, personal, or mixed, tangible and intangible, of every kind and description, wherever located, relating to operation of the Boise Terminal Business, including but not limited to:
1. all real property interests (including fee simple interests and real property leasehold interests), including all easements, appurtenances, licenses, and permits, together with all buildings and other structures, facilities, and improvements located thereon, owned, leased, or otherwise held;
 2. all Tangible Personal Property, including any Tangible Personal Property removed from any location of the Boise Terminal Business since the date of the announcement of the Acquisition, and not replaced, if such property was used in connection with the operations of the Boise Terminal Business prior to the Acquisition Date;
 3. all inventories other than inventories held by a customer;
 4. all (i) trade accounts receivable and other rights to payment from customers and the full benefit of all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped or products sold or services rendered to customers, (ii) all other accounts or notes receivable and the full benefit of all security for such accounts or notes, and (iii) any claim, remedy or other right related to any of the foregoing;
 5. all Contracts and all outstanding offers or solicitations to enter into any Contract, to the extent such Contracts pertain exclusively to the Boise Terminal Business, and to the extent assignable;
 6. all consents, licenses, registrations, or permits issued, granted, given, or otherwise made available by or under the authority of any governmental body or pursuant to any legal requirement, and all pending applications therefor or renewals thereof;
 7. all data and Records, including client and customer lists and Records, referral sources, research and development reports and Records, production reports and Records, service and warranty Records, equipment logs, operating guides and manuals, financial and accounting Records, creative materials, advertising materials, promotional materials, studies, reports, correspondence and other similar documents and Records, and copies of all personnel Records (to the extent permitted by law);
 8. all intangible rights and property, including Intellectual Property, going concern value, goodwill, telephone, telecopy, and e-mail addresses and listings;
 9. all insurance benefits, including rights and proceeds; and

and shall not include any commercial names, all assumed fictional business names, trade names, registered and unregistered trademarks, service marks and applications.

- T. “Tangible Personal Property” means all machinery, equipment, tools, furniture, office equipment, computer hardware, supplies, materials, vehicles, and other items of tangible personal property (other than inventories) of every kind owned or leased, together with any express or implied warranty by the manufacturers or sellers or lessors of any item or component part thereof and all maintenance records and other documents relating thereto.
- U. “Terminal Customer” means any Person who has a Contract with Respondents for Terminaling services in Boise, Idaho (including Contracts that Respondents acquire as a result of the Acquisition).
- V. “Terminaling” means the temporary storage of light petroleum products received via pipeline, marine vessel, tank trucks, rail, or transport trailers, and the re-delivery of light petroleum products from storage tanks into tank trucks, rail cars, transport trailers, or pipelines.
- W. “Transitional Assistance” means any (i) administrative assistance (including, but not limited to, order processing, shipping, accounting, and information transitioning services) or (ii) technical assistance with respect to the provision of light petroleum products terminaling services.

II.

IT IS FURTHER ORDERED that:

- A. Respondents shall:
 - 1. No later than 180 days from the date this Order is issued, divest the Boise Terminal Assets, absolutely and in good faith, at no minimum price, as an on-going business, to a Person that receives the prior approval of the Commission (hereinafter referred to as “Acquirer”) and in a manner that receives the prior approval of the Commission; and
 - 2. No later than the Divestiture Date, grant a worldwide, royalty-free, irrevocable, and transferable license (subject to the prior approval of the Commission) under all Shared Intellectual Property to the Acquirer that will enable the Acquirer to operate the Boise Terminal Business in substantially the same manner as Respondents prior to the Acquisition, including the freedom to extend existing services and products and develop new services and products.
- B. No later than the Divestiture Date, Respondents shall secure all approvals, consents, ratifications, waivers, or other authorizations from all Persons that are necessary for the divestiture of the Boise Terminal Assets.

IV.

IT IS FURTHER ORDERED that:

- A. Respondents shall (i) keep confidential (including as to Respondents' employees) and (ii) not use for any reason or purpose, any Confidential Information held or controlled by Respondents relating to the Boise Terminal Business and Boise Terminal Asset (other than information relating to Respondents' own transactions in the course of conducting business as throughput customers of the Boise Terminal Business); *provided, however*, that Respondents may disclose or use such confidential information:
1. To perform their obligations or as permitted under this Order, the Order to Maintain Assets, or a Divestiture Agreement; and
 2. To comply with financial reporting requirements, obtaining legal advice, defending legal claims, investigations, or enforcing actions threatened or brought against the Boise Terminal Business or Boise Terminal Assets, or as required by law;

Provided further, that Respondents shall require that employees who have had access to any Confidential Information relating to the Boise Terminal Business or Boise Terminal Assets (other than information relating to Respondents' own transactions in the course of conducting business as throughput customers of the Boise Terminal Business) within the one (1) year period prior to the Acquisition Date sign an agreement to maintain the confidentiality of such information.

- B. If disclosure or use of any Confidential Information is permitted to Respondents' employees or to any other Person under Paragraph IV.A. of this Order, Respondents shall limit such disclosure or use (i) only to the extent such information is required, (ii) only to those employees or Persons who require such information for the purposes permitted under Paragraph IV.A., and (iii) only after such employees or Persons have signed an agreement to maintain the confidentiality of such information.
- C. Respondents shall enforce the terms of this Paragraph IV. as to their employees or any other Person, and take such action as is necessary to cause each of their employees and any other Person to comply with the terms of this Paragraph IV., including implementation of access and data controls, training of their employees, and all other actions that Respondents would take to protect their own trade secrets and proprietary information.

V.

IT IS FURTHER ORDERED that:

- A. If Respondents have not divested the Boise Terminal Assets as required by Paragraphs II. and III. of this Order, the Commission may appoint a Divestiture Trustee to divest the Boise Terminal Assets in a manner that satisfies the requirements of this Order. The Divestiture Trustee appointed pursuant to this Paragraph may be the same Person appointed as Monitor pursuant to the relevant provisions of the Order to Maintain Assets.
- 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 divest the relevant assets in accordance with the terms of this Order. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph 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 ten (10)

2. The Divestiture Trustee shall have twelve (12) months from the date the Commission approves the trust agreement described herein to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve (12) month period, the Divestiture Trustee has submitted a plan of divestiture or believes that the divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or in the case of a court-appointed Divestiture Trustee, by the court.
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 divestiture. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph V 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 divestiture shall be made in the manner and to an Acquirer as required by this Order; *provided, however,* if the Divestiture Trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the Divestiture Trustee shall divest to the acquiring entity selected by Respondents from among those approved by the Commission; *provided further, however,* that Respondents shall select such entity within five (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

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. For purposes of this Paragraph V.E.6., the term "Divestiture Trustee" shall include all Persons retained by the Divestiture Trustee pursuant to Paragraph V.E.5. of this Order.
 7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.
 8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every sixty (60) days concerning the Divestiture Trustee's efforts to accomplish the divestiture.
 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*, such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.
- F. The Commission may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a 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 this Paragraph V.
- 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

VI.

IT IS FURTHER ORDERED that:

- A. Respondents shall enter into, and submit to the Commission for approval, one or more agreements with Acquirer that sets forth the manner in which Respondents shall complete (i) the divestiture of the Boise Terminal Assets required by this Order and (ii) any other obligation under this Order that requires prior approval of the Commission.
- B. Respondents shall comply with all provisions of any agreement between Respondents and Acquirer that has been approved by the Commission (“Divestiture Agreement”). In the event of a conflict between the terms of this Order and a Divestiture Agreement, or any ambiguity in the language used in a Divestiture Agreement, the terms of this Order shall govern to resolve such conflict or ambiguity.
- C. Respondents shall not modify the terms of a Divestiture Agreement without the prior approval of the Commission, except as otherwise provided in Rule 2.41(f)(5) of the Commission’s Rules of Practice and Procedure, 16 C.F.R. § 2.41(f)(5).

VII.

IT IS FURTHER ORDERED that the purpose of the divestiture of the Boise Terminal Assets is to ensure the continued use of the assets in the same businesses in which such assets were engaged at the time of the announcement of the Acquisition by Respondents and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission’s Complaint.

VIII.

IT IS FURTHER ORDERED that:

- A. Respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with this Order and the Order to Maintain Assets:
 - 1. No later than thirty (30) days after the date this Order is issued and every thirty (30) days thereafter until Respondents have fully complied with the provisions of Paragraph II.A. – II.C. of this Order; and
 - 2. No later than one (1) year after the date this Order is issued and annually thereafter until Respondents have completed their obligations under Paragraphs II. and III. of this Order, and at such other times as the Commission staff may request.

- B. With respect to the divestiture required by Paragraph II. of this Order, Respondents shall include in their compliance reports (i) the identities of all parties and a description of all substantive contacts or negotiations relating to the divestiture and approval, (ii) copies, other than of privileged materials, of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning the divestiture and approval, and (iii) as applicable, a statement that any divestiture approved by the Commission has been accomplished, including a description of the manner in which Respondents completed such divestiture and the date the divestiture was accomplished.

IX.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to any proposed:

- A. Dissolution of either Respondent;
- B. Acquisition, merger, or consolidation of either Respondent; or
- C. Any other change in either Respondent, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of the Order.

X.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondents, Respondents shall without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of the Respondents and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession, or under the control, of the Respondents related to compliance with this Order, which copying services shall be provided by the Respondents at their expense; and
- B. To interview officers, directors, or employees of the Respondents, who may have counsel present, regarding such matters.

XI.

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

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED:

Appendix A

NOTICE

To settle concerns arising from Tesoro's acquisition of certain assets of Chevron Corporation, on [insert date of consent agreement], Tesoro agreed with the staff of the Federal Trade Commission ("FTC") to allow customers that purchase Terminaling services for light petroleum products in Boise, Idaho, to terminate their contracts with respect to any or all of the services, at the option of the customer, without penalty or charge, immediately upon request of the customer at any time from the [insert Public Record Date] until six (6) months after Tesoro has sold its current terminal in Boise, Idaho.

You are being sent this notice because you are or will be a customer that purchases Terminaling services from Tesoro in Boise, Idaho. You may read and download a copy of the Order from the FTC at its web site at [web link to Order] as well as other documents relating to the settlement. Tesoro's obligations with respect to contract termination are set out in Paragraph __ of the Order. Capitalized terms used in the Order are defined in Paragraph I. of the Order.

If you wish to terminate your contract with respect to any or all of the Terminaling services you purchase from Tesoro, please contact xxxxxxxxxxxx, Tel: xxxxxxxxxxxx, Email: xxxxxxxxxxxx. If you have any questions or concerns about these obligations, you may contact the staff of the