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UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Deborah Platt Majoras, Chairman**
Orson Swindle
Thomas B. Leary
Pamela Jones Harbour
Jon Leibowitz

In the Matter of	)	
	)	
Valero L.P.,	)	
a limited partnership,	)	
Valero Energy Corporation,	)	
a corporation,	)	
	)	
and	)	**Docket No. C-4141**
	)	
Kaneb Services LLC ,	)	
a limited liability company,	)	
Kaneb Pipe Line Partners, L.P.,	)	
a limited partnership	)	
	)	
	)	

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission ("FTC" or "Commission"), having reason to believe that Respondents Valero L.P. and Valero Energy Corporation and Respondents Kaneb Services LLC and Kaneb Pipe Line Partners, L.P. (together "Kaneb") have entered into agreements and plans of merger whereby Valero L.P. proposes to acquire all of the outstanding common stock of Kaneb, that such agreement and plan of merger violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

I. RESPONDENTS

Valero L.P.

1. Respondent Valero L.P. 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 office and principal place of business located at One Valero Way, San Antonio, Texas 78249.

2. Respondent Valero L.P. is, and at all times relevant herein has been, a diversified transportation and terminaling company engaged, either directly or through affiliates, in the transportation and terminaling of crude oil, intermediate refinery feed stocks, finished petroleum product blend components, gasoline, diesel fuel, and aviation fuel; and other related businesses.

3. Valero GP, LLC is the general partner of Riverwalk Logistics, L.P., which is in turn the general partner of Valero L.P. Valero GP, LLC manages the operations and employs the full-time personnel of Valero L.P. Riverwalk Logistics, L.P. owns a two percent general partnership interest in Valero L.P. At all times relevant herein, Valero GP, LLC and Riverwalk Logistics, L.P. have been indirect wholly owned subsidiaries of Valero Energy Corporation.

4. Respondent Valero L.P. 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 is an entity whose business is in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

Valero Energy Corporation

5. Respondent Valero Energy 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 One Valero Way, San Antonio, Texas 78249.

6. Respondent Valero Energy Corporation is, and at all times relevant herein has been, a diversified energy company engaged, either directly or through affiliates, in the refining of crude oil into refined petroleum products, including gasoline, aviation fuel, and other light petroleum products; the transportation, terminaling, and marketing of gasoline, diesel fuel, and aviation fuel; and other related businesses.

7. Respondent Valero Energy Corporation 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 is a corporation whose business is in or affecting

commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

Kaneb Pipe Line Partners, L.P.

8. Respondent Kaneb Pipe Line Partners, L.P. 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 office and principal place of business located at 2435 North Central Expressway, Richardson, Texas 75080.

9. Respondent Kaneb Pipe Line Partners, L.P. is, and at all times relevant herein has been, a diversified transportation and terminaling company engaged, either directly or through affiliates, in the transportation and terminaling of crude oil, intermediate refinery feed stocks, finished petroleum product blend components, gasoline, diesel fuel, and aviation fuel; and other related businesses.

10. Respondent Kaneb Pipe Line Partners, L.P. 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 is an entity whose business is in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

Kaneb Services LLC

11. Respondent Kaneb Services LLC is a publicly-traded 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 2435 North Central Expressway, Richardson, Texas 75080.

12. Respondent Kaneb Services LLC is, and at all times relevant herein has been, a company that manages and operates a refined petroleum products and anhydrous ammonia pipeline business and a terminaling of petroleum products and specialty liquids business through the general partner interest owned by one of its subsidiaries in Kaneb Pipe Line Partners, L.P., a Delaware limited partnership, which in turn owns those systems and facilities through its subsidiaries, and other related businesses.

13. Respondent Kaneb Services LLC 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 is a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

II. <u>THE MERGERS</u>

14. Pursuant to (1) the Agreement and Plan of Merger, dated as of October 31, 2004, by and among, Valero L.P.; Riverwalk Logistics, L.P.; Valero GP LLC; VLI Sub A LLC; and Kaneb Services LLC; and (2) the Agreement and Plan of Merger, dated as of October 31, 2004, by and among Valero L.P.; Riverwalk Logistics, L.P.; Valero GP LLC; VLI Sub B LLC; Kaneb Pipe Line Partners, L.P.; and Kaneb Pipe Line Company LLC, Valero L.P. intends to acquire all of the equity interests of Kaneb Services LLC and Kaneb Pipe Line Company, L.P. in exchange for cash, Valero L.P partnership units, or a combination of cash and Valero L.P. partnership units. The value of the transaction at the time of the agreements was approximately $2.8 billion. The surviving entity is to be called Valero L.P.

III. <u>TRADE AND COMMERCE</u>

Relevant Product Markets

15. A line of commerce in which to analyze the effect of the proposed transaction is the provision of terminaling services for light petroleum products, fuel blending components, intermediate feed stocks for refinery units, and crude oil.

16. A line of commerce in which to analyze the effect of the proposed transaction is the pipeline transportation of light petroleum products.

17. A line of commerce in which to analyze the effect of the proposed transaction is the bulk supply of light petroleum products.

18. Light petroleum product terminals are specialized facilities with large storage tanks used to receive light petroleum products by pipeline, by water, or direct from refinery production; for storage; and for redistribution by pipeline, water carrier, or local distribution by truck.

19. Terminaling services consist of a cluster of services related to the storage and throughput of petroleum products. Terminals receive, store, and handle bulk quantities of light petroleum products for redelivery by pipeline, into water vessels, or across truck racks in tankwagon quantities. They also perform value-added services, such as handling and injection of motor fuel additives (including ethanol) as light petroleum products are redelivered across the truck rack. Terminals also receive, store, and redeliver bulk quantities of crude oil, refinery feedstocks, and other blending components for finished fuels.

20. Light petroleum products include motor gasoline, distillates, and jet fuel.

21. Motor gasoline is produced in various grades and types, including conventional unleaded gasoline, reformulated gasoline, CARB gasoline, and others. Reformulated gasoline is gasoline formulated for use in motor vehicles, the composition and properties of which meet the requirements of the reformulated gasoline regulations promulgated by the U.S. Environmental Protection Agency under Section 211K of the Clean Air Act. Reformulated gasoline also includes oxygenated fuels program reformulated gasoline. CARB gasoline is gasoline meeting the specifications of the California Air Resources Board, and which also meet or exceed U.S. Environmental Protection Agency gasoline specifications for the areas in which they are used. There is no substitute for gasoline as a fuel for automobiles and other vehicles that are designed to use gasoline.

22. Diesel fuel is a petroleum distillate with the referenced sulfur specification to meet on-road, off-road, or home heating uses. There is no substitute for the appropriate diesel fuel as a fuel for trucks, railroad engines, farm equipment, other vehicles and equipment designed to burn diesel fuel. Jet fuel is a kerosene product meeting the specifications for use as turbojet and turboprop engines. Military jet fuel meets the specifications for kerosene products designated for military use (JP-8 and JP-5).

23. Blend components are petroleum products and other chemicals blended with unfinished gasoline to produce finished gasoline. Examples of common blend components include CARBOB, reformate, alkylate, MTBE, and ethanol. Ethanol is an anhydrous denatured aliphatic alcohol. The use of ethanol as a gasoline blending component and oxygenate has become increasingly prevalent in some parts of the country, especially as some states, (*e.g.*, California, New York) have recently prohibited the use of oxygenates such as MTBE.

24. Crude oil is the primary feedstock distilled and further refined to produce finished fuel products and other refined products. Intermediate feedstocks are semi-refined petroleum products used as feedstocks to blend into finished petroleum products.

Relevant Geographic Markets

25. Relevant sections of the country in which to analyze the proposed transaction are the following:

a. Greater Philadelphia Area, consisting of the metropolitan statistical areas ("MSAs") of Philadelphia, Pennsylvania, Wilmington, Delaware, and Camden, New Jersey, where the mergers would reduce competition in terminaling services for, and among bulk suppliers of, light petroleum products, as alleged below;

b. Colorado Front Range, consisting of the portion of Colorado east of the Continental Divide, including the MSAs of Denver, Colorado Springs, Fort Collins, and Boulder, Colorado, where the mergers would reduce competition in pipeline transportation and terminaling services for, and among bulk suppliers of, light petroleum products, as alleged below; and

c. Northern California, consisting of California counties north of, but not including, San Luis Obispo, Kern, and San Bernardino counties, and narrower markets contained therein, where the mergers would reduce competition in terminaling services for crude oil, light petroleum products, blend components, and intermediate refinery feedstocks, and among bulk suppliers of light petroleum products and blend components (including ethanol), as alleged below.

Market Structure

Greater Philadelphia Area

26. Refineries produce light petroleum products and deliver them either into storage tanks or terminals on the refinery premises or into pipelines or deepwater marine vessels, that, in turn, deliver the fuel products into terminals located near the final consumer.

27. Refineries, deepwater-capable terminals, and pipeline terminals are direct horizontal competitors from which firms produce or to which firms deliver bulk supplies of light petroleum products. In the Greater Philadelphia Area, local refiners and bulk suppliers sell to independent discount gasoline retailers, oil companies, and wholesalers of light petroleum products.

28. Bulk suppliers of light petroleum products require terminals that can receive, store, and transfer the products to marine vessel, pipeline or truck. There is no substitute for light petroleum products terminals for bulk suppliers.

29. Firms that purchase truck-load quantities of light petroleum products to supply their retail or commercial pumps have no effective alternative to using local light petroleum product terminals.

30. Valero and Kaneb are direct horizontal competitors in the provision of terminaling services for bulk suppliers in the Greater Philadelphia Area.

31. Kaneb is an independent commercial terminal operator. Kaneb does not own or sell any light petroleum products to retail or commercial customers. Thus, in Philadelphia, Kaneb derives its revenue solely from the provision of terminaling services, including receipt and throughput of bulk supplies.

32. Bulk suppliers may purchase light petroleum products from an integrated refiner and terminal operator in the Greater Philadelphia Area (“local suppliers”). The local suppliers

in the Philadelphia area include Valero, ConocoPhillips, Premcor, Sunoco, ExxonMobil, and Hess.

33. A reasonable substitute for bulk suppliers to purchasing light petroleum products made by local refineries in the Greater Philadelphia Area for a significant portion of the time is the purchase of wholesale light petroleum products produced outside the area and physically delivered by a pipeline or marine vessel. The primary sources of these imports are refiners located in the U.S. Gulf Coast region ("Gulf Coast") and outside the United States.

34. Valero L.P. owns a light petroleum products terminal in Paulsboro, New Jersey, from which light petroleum products are delivered by truck into, among other places, the Greater Philadelphia Area. The Valero L.P. terminal is supplied by Valero Energy's Paulsboro refinery.

35. Kaneb owns three terminals in the greater Philadelphia area: two in Philadelphia and one in Paulsboro, New Jersey. Kaneb's "north" Philadelphia terminal is connected to the Colonial Pipeline and is capable of receiving bulk shipments of light petroleum products produced in the Gulf Coast. The terminal also has a dock that permits it to receive bulk marine shipments by barge. Kaneb's "south" Philadelphia terminal is connected to the Colonial Pipeline but does not currently have access to marine shipments. Kaneb's Paulsboro terminal can receive bulk shipments both from the Colonial Pipeline and from deepwater tankers.

36. On April 25, 2005, Valero Energy announced its intent to acquire Premcor Inc. in a transaction valued at approximately $8 billion. The transaction includes Premcor's Delaware City, Delaware, refinery. For the purposes of analyzing the proposed Valero/Kaneb transaction, the Commission assumes a combined Valero, Kaneb, and Premcor.

37. Post-merger, the combined Valero, Kaneb, and Premcor will control a significant share of bulk supply and terminaling services for light petroleum products in the greater Philadelphia area. The proposed transaction would significantly increase market concentration, and post-merger the market would be highly concentrated. Without Premcor, post-merger, the combined Valero and Kaneb would still control a significant share of bulk supply and terminaling services for light petroleum products in the Greater Philadelphia area.

38. As an independent terminal operator, Kaneb today provides Philadelphia area customers access to bulk supply originating outside the area. Without this competitive constraint, Philadelphia prices, generally limited by either Gulf Coast prices plus pipeline tariff or New York Harbor prices adjusted by the water-borne transportation costs, could rise.

39. Kaneb's terminals are the only Philadelphia area terminals accessible to independent delivery, storage, and throughput of bulk imports of light petroleum products delivered by marine vessel (deepwater and barge) and Colonial Pipeline into the Greater Philadelphia area. Loss of access would reduce the total supply to the Greater Philadelphia area and increase wholesale prices for light petroleum products.

40. After the mergers, the combined firm could effectively coordinate with the other providers in the Greater Philadelphia area to raise prices in bulk supply of and terminaling services for light petroleum products in the greater Philadelphia area.

<u>Colorado Front Range</u>

41. Valero and Kaneb are direct horizontal competitors in the provision of pipeline transportation to and terminaling services for bulk suppliers of light petroleum products in the Colorado Front Range and in narrower markets contained therein. Other providers of bulk supply and terminaling services for light petroleum products in the Colorado Front Range are Sinclair, Suncor, ConocoPhillips, and Magellan.

42. Kaneb is an independent pipeline and terminal operator in the Colorado Front Range. Kaneb does not own or sell any of the product that it transports on its pipeline or stores in its terminal. Thus, Kaneb derives its revenue solely from providing pipeline transportation and terminaling services.

43. Bulk supply customers in Denver may purchase light petroleum products from local suppliers. The local suppliers in the Colorado Front Range are Valero, Suncor, ConocoPhillips, and Sinclair.

44. For bulk supply customers, a reasonable substitute for purchasing from local refiners for a significant portion of the time is purchasing wholesale light petroleum products from refineries located outside of the Colorado Front Range and physically delivered into the area by pipeline. Refiners outside of the area, in Montana, Wyoming, Kansas, and Texas, that supply the Colorado Front Range are Frontier, Sinclair, ExxonMobil, ConocoPhillips, and CHS.

45. Valero L.P. owns the McKee-Denver pipeline that originates at the Valero Energy refinery in McKee, Texas, and serves Denver. Valero L.P. has a partial interest in the Borger-Denver pipeline. This pipeline runs from the ConocoPhillips refinery in Borger, Texas, through the Valero Energy refinery in McKee, Texas, and connects to a Valero L.P. terminal in Denver, Colorado.

46. Kaneb owns the West Pipeline system, which originates in Casper, Wyoming, and runs to terminals in Fountain, Colorado (near Colorado Springs), and Dupont, Colorado (near Denver), among other locations. The West Pipeline connects to a Frontier refinery in

Cheyenne, Wyoming; a Sinclair refinery in Casper, Wyoming; and the Seminoe Pipeline, from which it receives light petroleum products from the ExxonMobil, ConocoPhillips, and CHS refineries in Billings, Montana.

47. Post-merger, the combined Valero and Kaneb will control a significant share of bulk supply, and of terminaling services for bulk suppliers, of light petroleum products in the Colorado Front Range. The proposed transaction would significantly increase market concentration, and post-merger the market would be highly concentrated. The proposed transaction would result in Valero having a monopoly in the Colorado Springs area.

48. After the mergers, the combined firm could effectively coordinate with others to raise prices in the markets for bulk supply of, and terminaling services for, light petroleum products in the Colorado Front Range, or unilaterally in parts contained therein.

49. Kaneb's West Pipeline, along with Magellan's Chase Pipeline, provides the only independent access to pipeline deliveries of light petroleum products from refineries outside of the Colorado Front Range. Loss of independent access would reduce the number of competitors capable of supplying the Colorado Front Range, reduce the amount of supply in the market and increase wholesale prices for light petroleum products.

Northern California

50. Valero and Kaneb are direct horizontal competitors in the provision of terminaling services for bulk suppliers of refining components, most blending components, and light petroleum products in Northern California. The other participants are Tesoro, ConocoPhillips, Shell, and Chevron. BP and IMTT also participate in this market. However, these terminals have constrained access to the Kinder Morgan pipeline system.

51. Kaneb is an independent commercial terminal operator. Kaneb does not own or sell any light petroleum products to wholesale or commercial customers. Thus, Kaneb derives its revenue solely from the provision of terminaling services, including receipt of bulk supplies.

52. Kinder Morgan owns the only common carrier pipeline that serves the interior of Northern California. This pipeline provides the only economic means of distributing light petroleum products to Northern California terminals outside of the East Bay.

53. Bulk supply of light petroleum products in Northern California comes from two sources: (1) domestic production by integrated refiner/terminal operators in Northern California and (2) imports via marine vessel by petroleum product traders, largely on behalf of, or for the integrated refiner/marketers in California.

54. Kaneb owns three terminals that participate in this market: Martinez, Richmond, and Selby. All three of the terminals are both accessible to the Kinder Morgan pipeline system and capable of receiving deepwater marine vessels.

55. Valero owns a refinery at Benicia and associated storage tanks. The refinery and associated tanks are used by Valero for its own terminaling and bulk supply needs. Valero L.P. controls crude storage facilities.

56. Post-transaction, Valero and Kaneb will control a significant share of bulk supply and terminaling services for light petroleum products in Northern California. The proposed transaction would significantly increase market concentration, and post-merger the market would be highly concentrated.

57. After the transaction, the combined firm could more effectively coordinate with others to raise prices in the market for bulk supply of and terminaling services for refining components, blending components, and light petroleum products in Northern California.

58. The Kaneb terminals are the only independent marine-accessible terminals with unconstrained access to the Kinder Morgan pipeline system. The Kaneb terminals are therefore the only terminals through which a products trader and other marketers can import and distribute light petroleum products throughout Northern California. Wholesale bulk prices in Northern California would likely increase without access to the Kaneb terminals. In addition, Kaneb provides storage to some Northern California refiners for blending components and feedstocks. Loss of access to this storage would likely result in reduced production at these refineries.

<u>Northern California Bulk Ethanol Terminaling</u>

59. The U.S. Environmental Protection Agency and the California Air Resources Board have mandated the use of oxygenates at various times and in various places in California. Federal regulations require oxygenated gasoline year round in the counties of Los Angeles, Ventura, San Bernardino (partial), Riverside (partial), San Diego, Sacramento, Yolo, El Dorado (partial), Placer (partial), Solano (partial), and Sutter (partial). California regulations require oxygenated gasoline year round in the counties listed above and in Imperial County from November 1 through February 2.

60. California has prohibited the use of oxygenates such as methyl tert butyl ether (“MTBE”). Ethanol is the oxygenate of choice in areas where oxygenated gasoline is required by the U.S. Environmental Protection Agency.

61. Ethanol requires its own storage and cannot be commingled with other light petroleum products. Ethanol can be shipped in bulk quantities from production facilities into California only by rail or by marine vessel. Ethanol cannot be brought into the state by

pipeline. Once bulk ethanol shipments have been placed in storage, tank trucks transport ethanol to outlying terminals, where it can be placed in smaller storage tanks pending final blending with pre-oxygenated gasoline ("CARBOB") at the truck rack.

62. Kaneb's Richmond, Selby, and Stockton terminals are the only terminals in Northern California not associated with refineries capable of receiving and distributing bulk volumes of ethanol. Northern California terminals could not be economically supplied with ethanol trucked from Southern California or other locations.

63. Because satellite terminals must receive ethanol supplies by truck, trucking economics strongly influence which bulk ethanol terminal will supply ethanol to finished gasoline terminals.

64. Valero Energy is a significant user and supplier of ethanol for its own finished gasoline sales.

65. After the proposed transaction, Valero could increase prices for or deny access to bulk ethanol terminaling services, causing increased prices for, or reduced supply of, ethanol or finished CARB gasoline.

Entry

66. Entry into the relevant markets into relevant sections of the country would be difficult and would not be likely, timely, or sufficient to prevent the anticompetitive effects that are likely to result from the proposed transaction.

IV. VIOLATIONS CHARGED

First Violation Charged

67. Valero L.P. and Kaneb are competitors in the market for terminaling services for bulk suppliers of light petroleum products in the Greater Philadelphia Area.

68. The effect of the proposed transaction, if consummated, may be substantially to lessen competition in the provision of terminaling services for light petroleum products and the bulk supply of light petroleum products in the Greater Philadelphia Area, in 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, in the following ways, among others:

    a. by eliminating direct competition between Valero and Kaneb in the provision of terminaling services for bulk suppliers of light petroleum products;

b. by increasing the likelihood of, or facilitating, collusion or coordinated interaction between the combination of Valero and Kaneb and their competitors in the provision of terminaling services for bulk suppliers; and

c. by increasing the likelihood of, or facilitating, collusion or coordinated interaction between Valero and the other bulk suppliers of light petroleum products;

each of which increases the likelihood that the wholesale price of light petroleum products will increase in the relevant section of the country.

Second Violation Charged

69. Valero and Kaneb are competitors in pipeline transportation and terminaling services for bulk suppliers of light petroleum products in the Colorado Front Range.

70. The effect of the proposed transaction, if consummated, may be substantially to lessen competition in the provision of terminaling services for light petroleum products and the bulk supply of light petroleum products to the Colorado Front Range, and in narrower markets contained therein, in 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, in the following ways, among others:

a. by eliminating direct competition between Valero and Kaneb in the provision of pipeline transportation and terminaling services for bulk suppliers of light petroleum products;

b. by increasing the likelihood of, or facilitating, collusion or coordinated interaction between the combination of Valero and Kaneb and their competitors in the provision of pipeline transportation and terminaling services for bulk suppliers;

c. by increasing the likelihood that the combination of Valero and Kaneb will unilaterally exercise market power in the provision of pipeline transportation and terminaling services for bulk suppliers of light petroleum products in the Colorado Springs area; and

d. by increasing the likelihood of, or facilitating, collusion or coordinated interaction between Valero and the other bulk suppliers of light petroleum products;

each of which increases the likelihood that wholesale prices of light petroleum products will increase in the relevant sections of the country.

Third Violation Charged

71. Valero and Kaneb are competitors in terminaling services for bulk suppliers of refining components, blending components, and light petroleum products in Northern California.

72. The effect of the proposed transaction, if consummated, may be substantially to lessen competition in the provision of terminaling services for crude oil, light petroleum products, blend components, and intermediate refinery feedstocks, and the bulk supply of light petroleum products and blend components (including ethanol) in Northern California, in 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, in the following ways, among others:

    a. by eliminating direct competition between Valero and Kaneb in the provision of terminaling services for bulk suppliers of crude oil, refining components, light petroleum products, blend components, and intermediate refinery feedstocks,

    b. by increasing the likelihood of, or facilitating, collusion or coordinated interaction between the combination of Valero and Kaneb and their competitors in the provision of terminaling services for bulk suppliers; and

    c. by increasing the likelihood of, or facilitating, collusion or coordinated interaction between Valero and the other bulk suppliers of light petroleum products;

    each of which increases the likelihood that wholesale prices of light petroleum products will increase in the relevant section of the country.

Fourth Violation Charged

73. Kaneb provides services in the upstream market for terminaling for bulk ethanol in Northern California through its terminals at Selby and Stockton. No other independent terminals in Northern California can economically receive and distribute bulk supplies of ethanol.

74. Valero Energy is a significant user of ethanol for the oxygenation of gasoline and a significant seller in the downstream market for CARB gasoline in Northern California.

75. Valero could use information on the use of Kaneb's ethanol terminaling facilities to facilitate collusion in the bulk supply of CARB gasoline in Northern California.

76. The effect of the proposed transaction, if consummated, may be substantially to lessen competition in bulk supply of CARB gasoline in Northern California, in 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, by increasing the likelihood of collusion, which would increase prices of CARB gasoline in the relevant section of the country.

Statutes Violated

The proposed transaction between Valero L.P. and Kaneb violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and would, if consummated, violate 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 fourteenth day of June, 2005, issues its complaint against said Respondents.

By the Commission, Chairman Majoras recused.

SEAL:

Donald S. Clark
Secretary