an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public and interested government agencies only.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically, a general exclusion order directed to certain passive optical network equipment imported, sold for importation, and/or sold after importation that infringe claims 1 and 12–14 of U.S. Patent No. 7,333,511 or claims 1 and 3 of U.S. Patent No. 7,558,260. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public and interested government agencies are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on December 19, 2024. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on February 11, 2025.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1384'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. Government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: January 14, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–01307 Filed 1–17–25; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. XCL Resources Holdings, LLC, Verdun Oil Company II, LLC, and EP Energy LLC; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of

Columbia in *United States of America* v. *XCL Resources Holdings, LLC, Verdun Oil Company II, LLC, and EP Energy LLC,* Civil Action No. 1:25-cv-00041. On January 7, 2025, the United States filed a Complaint alleging that XCL Resources Holdings, LLC (''XCL''), Verdun Oil Company II, LLC (''Verdun''), and EP Energy LLC (''EP Energy'') (together ''Defendants'') violated the notice and waiting period requirements of section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (''HSR Act'' or ''Act'') by transferring beneficial ownership of EP Energy to XCL and Verdun during the waiting period, which constitutes gun jumping.

The Proposed Final Judgment, filed at the same time as the Complaint, requires: (i) XCL and Verdun jointly and severally to pay a civil penalty in the amount of $2,842,188.50, and EP Energy to pay a civil penalty in the amount of $2,842,188.50 within 30 days of entry of the Final Judgment; (ii) Defendants to refrain from certain conduct as laid out in the Final Judgment; and (iii) Defendants to design, maintain, and operate a compliance program to ensure compliance with the Final Judgment and the Antitrust Laws, and certify observance of these compliance provisions to the United States within 60 days of entry of the Final Judgment.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments in English should be directed to Maribeth Petrizzi, Special Attorney, United States, c/o Federal Trade Commission, 600 Pennsylvania Avenue NW, CC–8416, Washington, DC 20580 or by email to *bccompliance@ftc.gov.*

Suzanne Morris,

Deputy Director of Civil Enforcement Operations.

United States District Court for the District of Columbia

United States of America, c/o Department of Justice, Washington, DC 20530 Plaintiff, v. *XCL RESOURCES HOLDINGS, LLC, 600 N. Shepherd Drive, Suite 390, Houston, TX 77007; VERDUN OIL COMPANY II LLC, 945 Bunker Hill Road, Suite 1300, Houston, TX 77024 and EP ENERGY LLC, 945 Bunker Hill Road, Suite 100, Houston, TX 77024* Defendants. Civil Action No. 1:25-cv-00041.

Complaint for Civil Penalties and Equitable Relief for Violations of the Hart–Scott–Rodino Act

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action for equitable and monetary relief in the form of civil penalties against the Defendants XCL Resources Holdings, LLC (''XCL''),Verdun Oil Company II, LLC (''Verdun''), and EP Energy LLC (''EP''), and alleges:

Nature of the Action

1. This case involves violations of federal antitrust obligations under Section 7A of the Clayton Act, 15 U.S.C. 18A, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (''HSR Act''). Under the HSR Act, both parties must make a pre-merger notification filing to the federal antitrust agencies and observe the corresponding waiting-period obligations before transferring any ownership or control of the to-be-acquired business to the acquirer. This waiting period ensures that the parties to a proposed transaction remain as separate, independent entities during the pendency of the antitrust review. This suspensory waiting period allows the enforcement agencies the opportunity to investigate the transaction and, where applicable, pursue an enforcement action, before consolidation of the businesses and assets occurs.

2. In this matter, Verdun and EP entered a proposed transaction that was subject to the HSR Act's notification and waiting-period requirements, and each Defendant made the required pre-merger notification filing with the antitrust agencies. The Defendants failed, however, to satisfy their waiting-period obligations. Instead, upon executing the transaction agreement, EP allowed Verdun and its sister company, XCL, to assume operational and decision-making control over significant aspects of EP's day-to-day business operations. This was no mere technical violation; the Defendants' conduct effectively allowed one competitor to acquire beneficial ownership, including control over key competitive decisions of the other, before the transaction closed, which is precisely what the HSR Act prohibits.

3. Pursuant to a Membership Interest Purchase Agreement dated July 26, 2021 (''Purchase Agreement''), Verdun agreed to acquire EP, a company engaged in crude oil production in the Uinta Basin area of Utah and in the Eagle Ford area of Texas. Verdun is under common management with XCL, and both companies are engaged in crude oil production: Verdun in the Eagle Ford area and XCL in the Uinta Basin. The purchase price for the proposed transaction was approximately $1.4 billion. As part of the transaction, EP's operations in the Uinta Basin were to be transferred to XCL, and XCL would pay the portion of the purchase price attributed to the Uinta Basin assets.

4. The proposed transaction triggered a filing obligation under the HSR Act. As such, the Defendants were required to make premerger notification filings with the Federal Trade Commission (''FTC'') and Department of Justice and to observe the prescribed waiting periods before transferring ownership of EP to XCL and Verdun. The Defendants' parent entities made premerger notification filings for the Defendants' proposed transaction as required by the HSR Act. After receiving the premerger notification filings, the FTC investigated the proposed transaction and ultimately obtained a consent agreement addressing the FTC's concerns about the impact of the transaction on competition in the market for the development, production, and sale of waxy crude oil in the Uinta Basin area of Utah. The consent agreement was entered on March 25, 2022, and required the Defendants to divest all of EP's Utah operations to a qualified third-party operator, Crescent Energy, to remedy the potential lessening of competition in the alleged crude oil market.

5. The HSR Act's waiting-period obligation for this transaction went into effect on July 26, 2021, the date the Defendants executed the Purchase Agreement, and continued through March 25, 2022, the date the FTC accepted the consent agreement and granted termination of the waiting period.

6. For a portion of this waiting period, however, the Defendants disregarded their obligations under the HSR Act and

transferred significant operational control over EP's ordinary-course business to XCL and Verdun. This conduct violates the HSR Act and is often referred to as ''gun jumping'' or a ''gun-jumping violation.''

7. Specifically, the Purchase Agreement provided for the immediate transfer of control over key aspects of EP's business to XCL and Verdun, including granting XCL and Verdun approval rights over EP's ongoing and planned crude oil development and production activities and many of EP's ordinary-course expenditures. Once the Purchase Agreement was signed, by virtue of these approval rights, XCL and Verdun quickly began gun jumping by exercising operating control over significant aspects of EP's business. Indeed, XCL put an immediate halt to EP's new well-drilling activities, so that XCL—not EP—could control the development and production plans for EP's drilling assets moving forward. XCL halted EP's new oil-drilling activities for several weeks, from approximately July 26, 2021, to approximately August 16, 2021. On approximately August 17, 2021, after the Defendants realized that the FTC would investigate the transaction, XCL and Verdun allowed EP to resume its own well-drilling and planning activities.

8. The Defendants' unlawful gun jumping allowed competitors to coordinate their activities. Among other things, XCL's temporary halting of EP's development activities contributed to EP having crude oil supply shortages in September and October 2021 at a time when the United States was experiencing significant supply shortages and spiking crude oil prices due to sudden demand increases as COVID–19 restrictions eased. The Defendants anticipated EP's potential supply shortages while negotiating the Purchase Agreement, which specifically provided that XCL and Verdun—not EP—would bear all costs associated with EP's supply shortages. XCL and EP—direct competitors in the marketplace—then worked in concert to supply EP's customers in satisfaction of EP's customer supply commitments. During this period, EP employees effectively reported to their XCL counterparts and provided XCL employees with details on customer contracts, supply volumes, and pricing terms. XCL employees also coordinated directly with EP's customers to discuss EP's supply shortage and to arrange for alternative delivery to the customer, which XCL made either from its own supplies or from purchases it made on the spot market, to fulfill EP's contractual commitments to the customers. EP's customers began contacting XCL directly—sometimes excluding EP altogether—to discuss EP's supply and delivery commitments to each customer under the relevant EP supply contract.

9. The Purchase Agreement also required EP to submit all expenditures above $250,000 for XCL's or Verdun's review and approval. These approval requirements applied to many of EP's ordinary-course expenditures, and effectively transferred control over a significant portion of EP's day-to-day operations to XCL and Verdun. Further, XCL and Verdun received and approved expenditure requests from EP falling well below the $250,000 threshold outlined in the Purchase Agreement.

10. XCL also required changes to certain of EP's ordinary-course business operations, such as EP's well-drilling designs and its leasing and renewal activities. EP also gave XCL almost-unfettered access to EP's competitively sensitive business information—including EP's site design plans, customer contract and pricing information, and daily supply and production reports—in the months after the parties signed the Purchase Agreement.

11. Verdun also coordinated with EP on EP's contract negotiations with certain customers in the Eagle Ford production area. Specifically, Verdun observed that certain EP contracts included below-market prices and directed EP to raise them in the next contracting period. EP complied.

12. The illegal conduct detailed above lasted through October 27, 2021, when the Defendants executed an amendment to the Purchase Agreement, which allowed EP to operate independently once again and in the ordinary course of business, without XCL's or Verdun's control over its day-to-day operations. Around this time, XCL and Verdun and EP also stopped coordinating on customer supply and pricing and ceased exchanging competitively sensitive information.

13. The Defendants' transfer of operational control over key aspects of EP's business to XCL and Verdun during the HSR waiting period was a transfer of beneficial ownership that constitutes a gun-jumping violation of the HSR Act. The Defendants were in violation of the HSR Act from when the Purchase Agreement was signed, on July 26, 2021, until the Purchase Agreement was amended, on October 27, 2021, a period of 94 days.

Jurisdiction, Venue, and Interstate Commerce

14. The United States brings this action under Section 7A of the Clayton Act, 15 U.S.C. 18a, to recover civil penalties for the violation of the HSR Act.

15. This Court has jurisdiction over the subject matter of this action under Section 7A(g) of the Clayton Act, 15 U.S.C. 18a(g), and under 28 U.S.C. 1331, 1337(a), 1345, and 1355.

16. The Defendants are engaged in—and their activities described herein substantially affected—interstate commerce.

17. The Defendants have consented to the personal jurisdiction and venue in the District of Columbia for purposes of this action.

The Defendants

18. Defendant XCL Resources Holdings, 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 at 600 N. Shephard Drive, Suite 390 in Houston, Texas.

19. Defendant Verdun Oil Company II, LLC is a limited liability company organized, existing, and doing business under, and by virtue of, the laws of the State of Texas, with its office and principal place of business at 945 Bunker Hill Road, Suite 1300 in Houston, Texas.

20. Defendant EP Energy 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 at 945 Bunker Hill Road, Suite 100 in Houston, Texas.

21. All Defendants are engaged, among other things, in the development, production, and sale of crude oil in the United States.

The HSR Act and Rules

22. The HSR Act requires certain acquiring persons, and certain persons whose voting securities or assets are acquired, to file notifications with the Department of Justice and the FTC (collectively, the ''federal antitrust agencies'') and to observe a waiting period before consummating certain acquisitions of voting securities or assets. 15 U.S.C. 18a(a) and (b). Of relevance here, the notice and waiting requirements apply if, as a result of the acquisition, the acquiring person will ''hold'' assets or voting securities above the HSR Act's size of transaction threshold (which was $368.0 million at all times relevant to this complaint).

23. Under the HSR Act, the FTC promulgated rules defining relevant terms and specifying what information must be included in the required notification. 16 CFR 801–803. The rules define ''hold'' to mean ''beneficial ownership, whether direct, or indirect through fiduciaries, agents, controlled entities or other means.'' 16 CFR 801.1(c). While the existence of beneficial ownership will depend on the facts in a particular case, practical indicia include controlling ordinary-course business decisions, assuming or rejecting contractual obligations, obtaining competitively sensitive information, and partaking in financial gains and losses.

24. Through the HSR Act, Congress intended to provide the federal antitrust agencies prior notice of, and information about, proposed transactions. The HSR Act created a process for premerger notification and investigation that does not require assessing beforehand whether the proposed transaction is anticompetitive or illegal under the antitrust laws. Congress created a suspensory waiting period to provide the federal antitrust agencies with the opportunity to investigate a proposed transaction and to determine whether to seek an injunction to prevent its consummation if the investigation shows that the proposed transaction may violate the antitrust laws. Gun-jumping violations deprive the enforcement agencies of this opportunity to investigate a transaction and seek an injunction before a transaction is completed, after which it may be difficult to completely restore competition and the acquired company to their pre-transaction states.

The Purchase Agreement

25. Pursuant to the Purchase Agreement, XCL and Verdun agreed to acquire EP for $1.445 billion, with possible adjustments for specified conditions. XCL and Verdun each contributed more than $368 million of the purchase price, triggering notice and waiting requirements under the HSR Act for both companies.

26. XCL and Verdun's bid to acquire EP's business was contingent on XCL and Verdun securing immediate approval rights over EP's ordinary-course development activities; the Defendants memorialized these rights in the Purchase Agreement they signed. As XCL executives noted during the Purchase Agreement negotiations, ''[XCL's parent] is providing a deposit that more than offsets potential damages from 60 days of delayed production and initial operation planning, we moved materially on price and included this term in our initial offer sheet, we are unable to move off this point.'' (emphasis in original).

27. The Purchase Agreement restricted EP's discretion to conduct its ordinary-course business activities during the period between the signing of the Purchase Agreement and the closing of the transaction, a period that included the full duration of the HSR Act's applicable waiting period.

28. For example, EP committed ''not to propose, agree to, or commence any individual operation on the Assets anticipated to cost in excess of Two Hundred Fifty Thousand ($250,000),'' unless XCL or Verdun first expressly approved the activity, without any exception for ordinary-course transactions.

29. Further, for the numerous crude oil wells EP was developing, EP would ''not conduct any operation in connection with'' those plans ''unless such operations are expressly permitted pursuant to'' the Purchase Agreement ''or are otherwise approved by Purchaser.''

30. The Purchase Agreement thus prevented EP from continuing with its crude oil well-development activities without XCL's or Verdun's approval, giving XCL and Verdun control to stop or delay EP from moving forward with its production plans in the normal course of its business.

31. XCL or Verdun had ''sole discretion'' whether to approve any actions that were otherwise prohibited by the Purchase Agreement, and the Purchase Agreement set forth procedures for granting XCL's or Verdun's approval.

32. In short, these contractual provisions allowed one competitor to control the other's ordinary-course business activities relating to crude oil production before the transaction closed—a paradigmatic case of gun jumping through transfer of beneficial ownership. All this occurred during a time when the U.S. market as a whole was facing significant supply shortages and multi-year highs in oil prices, resulting in Americans paying skyrocketing prices at the pump.

33. The parties also agreed to shift to XCL and Verdun the financial risk for certain EP business activity, which constitutes further evidence of gun jumping. The Defendants anticipated that the Purchase Agreement restrictions on EP's activities would result in crude supply shortages for EP and its customers in the ensuing months and could cause EP to breach existing obligations. The Purchase Agreement therefore required XCL and Verdun to bear all financial risk and liabilities associated with these provisions and shifted to XCL and Verdun the financial ramifications of these changes and delays to EP's development activities. The Purchase Agreement provided that ''failure of Purchaser to approve such matters shall obligate Purchaser to bear all risk and liability for any breach or non-compliance under the Assets as a result of Purchaser's acts or omissions with respect to such failure to approve.''

34. The Purchase Agreement was eventually amended on October 27, 2021. Among other things, the amendment effectively allowed EP to resume its well-development activities in the ordinary course of business without requiring XCL's or Verdun's consent.

The Defendants' Unlawful Conduct Following the Merger Agreement

35. This matter presents a straightforward example of unlawful gun jumping where two companies agree to coordinate their activities before a transaction is permitted to close under the HSR Act. The Purchase Agreement created the contractual obligation for EP to transfer operating control over key portions of its crude oil production business to XCL and Verdun, and the Defendants' actions in the weeks and months after they executed the Purchase Agreement demonstrated that such a transfer of control from EP to XCL and Verdun did indeed take place. XCL and Verdun thus gained beneficial ownership of EP's assets in direct violation of the HSR Act's waiting period requirements.

XCL Required Ep To Suspend its Well-Completion Activities

36. The Defendants' actions abruptly halted EP's crude oil development activities. Indeed, upon signing the Purchase Agreement, XCL immediately stopped EP's ordinary-course well-drilling design and planning activities in Utah. XCL did this so that it—not EP—could take over the management of EP's development plans and designs moving forward.

37. An email sent the afternoon the Purchase Agreement was signed on July 26, 2021, from an EP executive to his counterparts at XCL, illustrates the Defendants' intentions to transfer operational control of EP to XCL and Verdun: ''Congratulations on getting the Purchase Agreement signed and deposit sent! Now we can move forward with your requested changes. Please confirm that you approve the following: Shut down all currently planned fracs until after the close. Per the attached spreadsheet, by shutting down these fracs we have sold more oil than we will

be able to deliver and XCL accepts the contractual and reputational ramifications of not delivering these barrels.''

38. XCL responded in the affirmative. ''*XCL Confirmations of EP Operational Changes* . . . . We confirm the request to suspend any operations related to completions between sign to close.'' (emphasis in original).

39. In the days after the Defendants signed the Purchase Agreement, XCL employees began actively supervising EP's well-design and planning activities, including by requiring changes to EP's site design plans and vendor-selection process. XCL employed a ''boots on the ground'' approach to taking over EP's operations and design planning, with EP employees effectively reporting to their XCL counterparts.

40. For instance, in an August 2, 2021, email from an XCL Vice-President to EP's Chief Operating Officer, the XCL executive states: ''Thanks for taking my call today, and working through operational planning with us. As discussed, we would like to complete the Moose Hollow and Bluebell wells as a combined team, where XCL leads on frac design and vendor selection, and EP teams with XCL to execute the operations.''

41. The Defendants understood that XCL's halting of EP's ordinary-course well-development projects would lead to, or contribute to, production shortfalls for EP and its customers in following months, given the delay in EP's ability to drill the new wells. In exchange, XCL agreed to assume the contractual and reputational ramifications of these shortfalls.

42. The stoppages to EP's ordinary-course well-drilling activities lasted for several weeks—until approximately August 17, 2021—and ended only after the Defendants realized that the FTC would conduct a full investigation into the competitive effects of their transaction. At that point, XCL allowed EP to resume its well-drilling activities—though EP would continue to seek XCL's review and approval for its plans and related expenditures, as required by the Purchase Agreement.

XCL Coordinated With EP on EP's Customer Contracts, Customer Relationships, and Customer Deliveries

43. The Defendants' unlawful gun jumping delayed introduction of increased supply in the market. EP faced supply shortages in the Uinta Basin in the months of September and October 2021 due to XCL halting EP's well-completion activities in the weeks following the Purchase Agreement signing. XCL and EP discussed the shortages and XCL's resulting financial obligation during the subsequent months. For instance, in an October 2021, email exchange between EP and XCL, an EP employee wrote, ''However, as XCL has been directing EP Energy's completions and has agreed to fulfill EP Energy's contractual commitments between sign and close any shortfall [in EP's ability to fulfil its supply commitments] would be due to XCL's decisions.''

44. To this end, XCL began conferring and coordinating with EP about EP's production volumes, customer contracts, and supply obligations.

45. XCL requested and received from EP detailed information about EP's actual and projected production volumes, delivery capabilities, and customer supply obligations—including details about the customers' contracted volumes and pricing terms.

46. XCL then proceeded to coordinate with EP to manage and direct EP's fulfillment of its contractual obligations to its customers, with XCL covering the volume shortages under EP's customer agreements.

47. XCL also engaged directly with EP's customers about EP's supply and delivery obligations, providing EP's customers with detailed information about EP's volume projections, supply shortages, and ability to meet its supply obligations in current and future periods.

48. XCL held itself out to EP's customers, in words or substance, as coordinating EP's supply and deliveries in the Uinta Basin, and EP's customers began contacting XCL directly about their EP contracts, EP's volume projections, and the delivery schedules pursuant to the contracts.

49. For example, in an email exchange between an EP customer and XCL from September 2021, the EP customer asks XCL to confirm EP's supply forecast: ''It was good catching up with you this week. Below is the forecast from EP Energy. Let me know if you think they'll actually have these contracted volumes for October or if we'll need to do another spot deal similar to September.'' The XCL employee responded, ''I do not have an updated EP forecast for October yet but am told it will come in the next day or two. Once that's in hand we'll be able to build a plan for October.''

50. Another example, from August 2021, shows an exchange between XCL and a different EP customer, where the EP customer asks XCL to provide EP's volume forecast for the following month: ''Just wondering if you have a feel yet for what Sept will look like (EP volume)? Also, just to confirm, we're good with the contract volumes for Q4, correct?'' The XCL employee responds, ''I do have a feel for sept, we have a planning meeting in the AM to finalize, but directionally looking better than planned. Potentially no cuts, probably more likely in the 500bpd range, but will definitely get you a communication on that tomorrow once I get confirmation. As for Q4, that too is still a little up in the air as we finalize the development plan and I'll share more as soon as I can. We are planning on moving things forward to fill commitments in full, just again needing to confirm all of that.''

51. XCL coordinated with EP and EP's customers regarding EP's supply and delivery volumes from approximately August 2021 through approximately October 2021. This coordination ended by November 2021, when XCL began informing EP's customers that XCL and EP needed to operate as independent companies for the remainder of the pre-merger period and that, as a result, XCL would no longer be covering EP's volume shortfalls.

XCL's and Verdun's Approvals Were Required for EP To Conduct Ordinary-Course Business Activities and To Make Ordinary-Course Expenditures; XCL and Verdun Required EP To Make Changes to its Operations

52. In addition to exercising their approval rights over EP's well-drilling activities, XCL and Verdun exercised their rights under the Purchase Agreement to review and approve other of EP's ordinary-course expenditures and business activities.

53. Under the Purchase Agreement, EP needed to secure XCL's or Verdun's approval before making expenditures above $250,000, which is a relatively low threshold in the crude development and production business. As a result, XCL or Verdun approval was required before EP could perform a range of ordinary-course activities needed to conduct its business, including, *e.g.,* purchasing supplies for its drilling operations and entering or extending contracts for drilling rigs.

54. In practice, EP sought and received approval for ordinary-course expenditures below the low levels established through the Purchase Agreement. These included approvals to purchase gauges and other pre-drilling expenses.

55. On top of submitting its expenditures for approval, under the Purchase Agreement, EP also needed to secure XCL's or Verdun's approval for other basic activities, such as hiring field-level employees and contractors necessary to conduct its drilling and production operations in the ordinary

course of business. Pursuant to these requirements, EP submitted its ordinary-course hiring proposals to XCL and Verdun for approval.

56. XCL and Verdun also required EP to make changes to aspects of its business plans and day-to-day operations. These included changes to EP's well-drilling and site design plans, modifications to the areas in Utah and Texas where EP could pursue leasing and renewal activities, changes regarding EP's selection of vendors, and instructions not to pursue development opportunities that EP had been exploring in the ordinary course of business.

Verdun and EP Coordinated Regarding Prices for EP's Customers in the Eagle Ford Region of Texas

57. The Defendants' gun-jumping activity also included coordination of prices. In the Eagle Ford region of Texas, employees from Verdun and EP coordinated on pricing terms that EP would offer to its customers. EP shared its competitively sensitive information on customer pricing and supply volumes with Verdun, and then sought Verdun's approval of the prices it negotiated with the customers.

58. On July 28, 2021, shortly after the Purchase Agreement was signed, a Verdun employee with responsibility for sales and marketing contacted his EP counterpart to discuss EP's customer pricing and contract terms. The Verdun employee used information he had obtained from the virtual data room set up by EP as part of the sale process to suggest changes to EP's customer pricing. An EP employee responded and continued to consult with the Verdun employee as she was negotiating with the customers. Ultimately, the EP employee sought and obtained the approval of the Verdun employee for the new contracts with EP's customers.

EP Exchanged Competitively Sensitive Information With XCL and Verdun Without Adequate Safeguards To Limit Access Or Prevent Misuse

59. The Defendants' gun jumping also facilitated the exchange of confidential and granular business information far beyond anything necessary for transaction due diligence. Upon signing the Purchase Agreement, XCL and Verdun asked for, and received, competitively sensitive information about EP's business operations and customers in Utah and Texas. This information included details on EP's customer contracts, customer pricing, production volumes, customer dispatches, business plans, site designs, vendor relationships and contracts, permitting and surveying information, and other competitively sensitive, nonpublic information. EP provided some of this information to XCL and Verdun on a daily or weekly basis.

60. EP took no meaningful steps to resist these requests from XCL and Verdun. Instead, EP agreed to provide XCL and Verdun employees with access to its competitively sensitive information in the pre-merger period, even though EP competed directly with both XCL and Verdun and the information exchange lacked any legitimate business purposes. Further, EP made no effort—and XCL and Verdun offered no protections on its own—to limit the access to, or use of, EP's competitively sensitive information by XCL's and Verdun's employees.

61. In the days following execution of the Purchase Agreement, XCL and Verdun requested and received access to EP daily operating reports, including reports on EP's crude production, dispatches by customers, and oil sales and loads by counterparty. These materials were provided to several XCL and Verdun businesspeople responsible for sales, marketing, and operations.

62. These daily reports provided the employees of XCL and Verdun with virtually real-time information about EP's operations, output, and sales. To illustrate, in an August 4, 2021, email from EP's Chief Operating Officer to a number of XCL and Verdun employees—including the CEO and head of operations for both XCL and Verdun—the EP executive writes, ''You will start receiving the attached Operations Report daily. This report covers drilling, completions, workovers and production.''

63. XCL also requested and received weekly updates on EP's permits and sundries, spacing orders, and ongoing regulatory work, as well as access to EP's site survey logs, geologic reports, geosteering reports, software communication systems, and various other datasets.

64. Beyond regular reports and updates, XCL and Verdun employees requested and received information on an ad hoc basis on EP's development plans, contracts, customers, projections, deliveries, and seemingly any other aspect of EP's business or operations of interest to XCL and Verdun business employees.

65. The Defendants had no legitimate business purposes for exchanging and disseminating EP's competitively sensitive business information in the pre-merger period and failed to place limits as to who at XCL and Verdun could access the information or how that information could be used.

66. Even information provided by EP to XCL and Verdun through the virtual data room—ostensibly for the legitimate purpose of conducting due diligence on the proposed transaction—lacked appropriate safeguards on access and use.

67. Some of EP's confidential information from the due diligence data room was used by Verdun's operations and sales employees to inform pricing and contract terms in the pre-merger period when Verdun and EP were still competitors in the marketplace. As noted in Paragraph 58 of this complaint, a Verdun employee used information from the virtual data room to discuss with his counterpart at EP prices for EP's customers.

68. The information flow from EP to XCL and Verdun continued in full force through approximately October 2021.

Cause of Action Violation of Section 7A of the Clayton Act

69. Plaintiff alleges and incorporates paragraphs 1 through 68 as if set forth fully herein.

70. XCL and Verdun's acquisition of EP was subject to Section 7A premerger notification and waiting-period requirements.

71. XCL and Verdun substituted their business interests and judgment for those of EP and exercised operational control over key aspects of EP's business before expiration of the waiting period in violation of Section 7A.

72. By controlling EP's business operations after having agreed to acquire EP, XCL and Verdun acquired beneficial ownership of EP's assets and thus acquired and held those assets within the meaning of Section 7A.

73. The Defendants were continuously in violation of the requirements of the HSR Act each day beginning on July 26, 2021, until XCL and Verdun ceased exercising operational control over relevant aspects of EP's business and the Purchase Agreement was amended on October 27, 2021.

Request for Relief

Wherefore, the United States requests:

(a) that the Court adjudge and decree that each Defendant violated the HSR Act and was in violation during the period beginning on July 26, 2021, and ending on October 27, 2021, a total of 94 days;

(b) that the Court order the Defendants pay to the United States an appropriate civil penalty as provided under Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1), and 16 CFR 1.98(a);

(c) that the Defendants, their officers, directors, agents, employees, subsidiaries, and successors, and all other persons acting or claiming to act on their behalf, be enjoined, restrained, and prohibited for a period of ten years from, in any manner, directly or indirectly, engaging in any other agreement, combination, or conspiracy that has the same effect as the alleged violation;

(d) that the Court order such other and further relief as it may deem just and proper; and

(e) that the Court award the United States its costs of this suit.

Date: 2025

FOR THE PLAINTIFF UNITED STATES OF AMERICA:

Doha Mekki,
Acting Assistant Attorney General, Department of Justice, Antitrust Division, Washington, DC 20530

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United States District Court for the District of Columbia

United States of America, Plaintiff, v. *XCL RESOURCES HOLDINGS, LLC, VERDUN OIL COMPANY II LLC,* and *EP ENERGY LLC,* Defendants.
Civil Action No. 1:25–cv–00041.

[Proposed] Final Judgment

WHEREAS the United States of America filed its Complaint on January 7, 2025, alleging that Defendants XCL Resources Holdings, LLC, Verdun Oil Company II LLC, and EP Energy LLC violated Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the ''Hart-Scott-Rodino Act''), and the United States and Defendants XCL Resources Holdings, LLC, Verdun Oil Company II LLC, and EP Energy LLC, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or an admission by any party regarding any issue of fact or law;

And Whereas Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

Now, Therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon the consent of the parties hereto, it is *Ordered, Adjudged, And Decreed:*

I. Jurisdiction

The Court has jurisdiction over the subject matter of this action. The Defendants consent solely for the purpose of this action and the entry of this Final Judgment that this Court has jurisdiction over each of the parties to this action. The Complaint states a claim upon which relief may be granted against the Defendants under Section 7A of the Clayton Act, 15 U.S.C. 18a.

II. Definitions

A. ''XCL'' means XCL Resources Holdings, LLC, a limited liability company organized, existing, and doing business under the laws of the state of Delaware, with its executive offices and principal place of business located at 600 N. Shepherd Drive, Suite 390, Houston, Texas 77007, including its successors and assigns, and its subsidiaries and divisions.

B. ''Verdun'' means Verdun Oil Company II LLC, a limited liability company organized, existing, and doing business under the laws of the state of Texas, with its executive offices and principal place of business located at 945 Bunker Hill Road, Suite 1300, Houston, Texas 77024, including its successors and assigns, and its subsidiaries and divisions.

C. ''EP Energy'' means EP Energy LLC, a limited liability company organized, existing, and doing business under the laws of the state of Delaware, with its executive offices and principal place of business located at 945 Bunker Hill Road, Suite 100, Houston, Texas 77024, including its successors and assigns, and its subsidiaries and divisions.

D. ''Agreement'' means any agreement, contract, or mutual understanding, whether formal or informal, written, or unwritten.

E. ''Antitrust Laws'' means the Federal Trade Commission Act, as amended, 15 U.S.C. 41 *et seq.,* the Sherman Act, 15 U.S.C. 1 *et seq.,* the Clayton Act, 15 U.S.C. 12 *et seq.,* and the Hart-Scott-Rodino Act, 15 U.S.C. 18a.

F. ''Competing Product'' means any product, service, or technology included in a Reportable Transaction that is offered for sale, license, or distribution to customers in the same state, or produced in the same state or geological basin, by a Defendant and any other party to the Reportable Transaction.

G. ''Farm-in agreement'' or ''Farm-out agreement'' means an agreement in which the owner or lessee of mineral rights assigns an interest in such mineral rights to another party, in exchange for such other party providing specified exploration and/or development activities, funding for such exploration and/or development activities, or contributing or swapping mineral acreage, regardless of whether the owner or lessee retains working interests, overriding royalty interests, or other types of economic interests. The agreement is termed a ''Farm-in agreement'' from the viewpoint of the party acquiring such interest, and a ''Farm-out agreement'' from the viewpoint of the owner or lessee of the mineral rights assigning such interest.

H. ''Non-Public Information'' means any information related to the assets and businesses included in a Reportable Transaction known by the Defendant or another party to the Reportable Transaction, excluding any information that was or becomes available to the public through means other than disclosure by the receiving party.

I. ''Pre-consummation Period'' means the period between the signing of an agreement or letter of intent for a Reportable Transaction, and the earlier of the expiration or termination of the applicable waiting period, and the abandonment of the Reportable Transaction.

J. ''Regulations'' means any rule, regulation, statement, or interpretation relating to the Hart-Scott-Rodino Act that has binding legal effect with respect to the implementation or application of the Hart-Scott-Rodino Act or any section or subsection within 16 CFR 801–803.

K. ''Reportable Transaction'' means a transaction to which a Defendant is a party that is reportable under Section 7A the Clayton Act, 15 U.S.C. 18a, including the rules, regulations and formal interpretations implementing the section.

III. Applicability

This Final Judgment applies to XCL, Verdun, and EP Energy, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. Civil Penalty

A. Judgment is hereby entered in this matter in favor of Plaintiff and against Defendants, and, pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1), the Debt Collection Improvement Act of 1996, Public Law 104134 § 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C.

2461), the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74 § 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 89 FR 9764 (February 12, 2024), XCL and Verdun jointly and severally are hereby ordered to pay a civil penalty in the amount of $2,842,188.50, and EP Energy is hereby ordered to pay a civil penalty in the amount of $2,842,188.50, for a total among all Defendants of $5,684,377.00. Payment of the civil penalty ordered hereby shall be made by wire transfer of funds or cashier's check. If the payment is to be made by wire transfer, prior to making the transfer, Defendant will contact the Budget and Fiscal Section of the Antitrust Division's Executive Office at *ATR.EXO-Fiscal-Inquiries@usdoj.gov* for instructions. If the payment is made by cashier's check, the check must be made payable to the United States Department of Justice—Antitrust Division and delivered to: Chief, Budget & Fiscal Section, Executive Office, Antitrust Division, United States Department of Justice, Liberty Square Building, 450 5th Street NW, Room 3016, Washington, DC 20530.

B. Defendants shall pay the full amount of the civil penalty within thirty (30) days of entry of this Final Judgment. In the event of a default or delay in payment, interest at the rate of eighteen (18) percent per annum shall accrue thereon from the date of the default or delay to the date of payment.

V. Prohibited Conduct

A. During the Pre-consummation Period for any Reportable Transaction, the Defendant shall not enter into any Agreement with any other party to the transaction to:

1. combine, merge, or transfer (in whole or in part) any operational or decision-making control over any aspect of the business, assets, or interests that are part of the Reportable Transaction including (a) the production, marketing, or distribution of any to-be-acquired product; or (b) any sales, service, or procurement terms for such products;

2. require one party to the Reportable Transaction to obtain approval from another party to the Reportable Transaction for any ordinary-course business activities or expenses, including planned capital expenditures;

3. delay or suspend ordinary-course sales or development efforts; or

4. disclose or seek the disclosure of the following information for any Competing Product:

a. current or future prices or contract offers; or

b. Non-Public Information relating to customers, current or future drilling and completions, production, sales, or shipments to customers.

Provided, however, that nothing in this Final Judgment prohibits Defendants from disclosing or seeking information relating to a Competing Product (i) that is publicly available at the time disclosure occurs, or (ii) that is necessary to conduct reasonable and customary due diligence of or integration planning for the proposed transaction, provided such activity by Defendants are supervised by antitrust counsel and occurs pursuant to a non-disclosure agreement that (a) limits use of the information to conducting due diligence or integration planning (including limiting dissemination of the information to individuals involved in or supervising due diligence or integration planning), (b) prohibits disclosure of the information to any employee of the receiving entity who is directly responsible for the marketing, pricing, or sales of a Competing Product, and (c) requires the recipient to delete or destroy the information if the Reportable Transaction does not close.

VI. Permitted Conduct

Nothing in this Final Judgment prohibits Defendants from:

A. Agreeing that a party to a transaction shall continue to operate in the ordinary course of business during the Pre-consummation Period;

B. Agreeing that a party to a transaction forgo conduct that would cause a material adverse change in the value of to-be-acquired assets during the Pre-consummation Period;

C. Negotiating, agreeing to, or participating in joint operating, joint development, Farm-in, or Farm-out agreements,

Provided, however, that the joint operating, joint development, Farm-in, or Farm-out agreements do not relate to assets included as part of any Reportable Transaction during the Pre-consummation Period; or

D. Disclosing Non-public Information related to Competing Products in the context of litigation or settlement discussions if the disclosure is subject to a protective order.

VII. Compliance

A. Defendants shall design, maintain, and operate an antitrust compliance program to ensure compliance with this Final Judgment and the Antitrust Laws, and as part of such program shall:

1. within 30 days of entry of this Final Judgment, appoint or retain a qualified antitrust compliance officer (''Antitrust Compliance Officer'') to supervise the design, maintenance, and operation of the program, and shall authorize the Antitrust Compliance Officer to perform all tasks necessary to fulfill these obligations. Defendants may replace the Antitrust Compliance Officer with another qualified person at any time;

2. within 45 days of entry of this Final Judgment, distribute a copy of this Final Judgment to each current officer and director, and each employee, agent, or other person who has responsibility or authority over sales, marketing, strategic planning, exploration and development, or mergers and acquisitions;

3. distribute a copy of this Final Judgment to any person who takes a position described in Paragraph VII(A)(2) within 30 days of the date the person takes such position;

4. provide in-person or online training concerning Defendants' obligations under this Final Judgment and the Antitrust Laws as they apply to Defendants' activities, to each person designated in Paragraphs VII(A)(2) or (3):

a. no later than 45 days after this Final Judgment is entered;

b. no later than 30 days after a person first takes a position described in Paragraph VII(A)(2); and

c. at least annually.

Provided, however, that as to any person on extended leave (*e.g.,* parental, family, or disability leave), the training for such person under the above schedule shall be completed within 30 days of the date the person returns to work;

5. obtain within 60 days from the entry of this Final Judgment, and annually thereafter, and retain for the duration of this Final Judgment, a written certification from each person designated in Paragraphs VII(A)(2) & (3) that the person: (a) has received, read, understands, and agrees to abide by the terms of this Final Judgment; (b) understands that failure to comply with this Final Judgment may result in conviction for criminal contempt of court; and (c) is not aware of any violation of the Final Judgment; and

6. provide a copy of this Final Judgment (or a hyperlink to a copy of this Final Judgment) to each party to a Reportable Transaction no later than signing of the definitive agreement.

B. Within 60 days of entry of this Final Judgment, Defendants shall certify to Plaintiff that they have (1) designed, established, and are maintaining an antitrust compliance program; (2) designated an Antitrust Compliance Officer, specifying their name, business address, and telephone number; (3) distributed this Final Judgment as required in Paragraph VII(A)(2); and (4)

provided training as required in Paragraph VII(A)(4).

C. For the term of this Final Judgment, on or before its anniversary date, Defendants shall file with Plaintiff an annual statement verifying that they are complying with the requirements of this Final Judgment and describing in detail the manner of their compliance with the provisions of Sections V and VII.

D. If any of Defendants' directors or officers, or the Antitrust Compliance Officer, learns of any violation of this Final Judgment, Defendants shall within three (3) business days take appropriate action to assure continued compliance with this Final Judgment, and shall notify the Plaintiff in writing of the violation within 10 business days of learning of the violation.

VIII. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally-recognized privilege, from time to time authorized representatives of the United States, including agents and consultants retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained pursuant to any provision of this Final Judgment may be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand jury proceedings, for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. In the event of a request by a third party, pursuant to the Freedom of Information Act, 5 U.S.C. 552, for disclosure of information obtained pursuant to any provision of this Final Judgment, the Antitrust Division will act in accordance with that statute, and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7. Designations of confidentiality expire 10 years after submission, "unless the submitter requests and provides justification for a longer designation period." See 28 CFR 16.7(b).

E. If at the time that Defendants furnish information or documents to the United States pursuant to any provision of this Final Judgment, Defendants represent and identify in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," the United States must give Defendants 10 calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding).

IX. Retention of Jurisdiction

This Court retains jurisdiction to enable any of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

X. Enforcement of Final Judgment

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of this Final Judgment, the United States may establish a violation of this Final Judgment and the appropriateness of any remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

B. The Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws, including Section 7A of the Clayton Act and Regulations promulgated thereunder. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In any enforcement proceeding in which the Court finds that a Defendant has violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment for that Defendant, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved prior to litigation, each Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as any other costs including experts' fees, incurred in connection with that enforcement effort, including in the investigation of the potential violation.

D. For a period of four (4) years after the expiration of this Final Judgment pursuant to Section XI, if the United States has evidence that a Defendant violated this Final Judgment before it expired, the United States may file an action against that Defendant in this Court requesting that the Court order (1) Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action under this Section, (2) any appropriate contempt remedies, (3) any additional relief needed to ensure the Defendant complies with the terms of the Final Judgment, and (4) fees or expenses as called for in Paragraph X(C).

XI. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry if each Defendant has paid the civil penalty in full.

XII. Costs

Each party shall bear its own costs of this action.

XIII. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *XCL RESOURCES HOLDINGS, LLC, VERDUN OIL COMPANY II LLC, and EP ENERGY LLC* Defendants. Civil Action No. 1:25-cv-00041.

Competitive Impact Statement

In accordance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (the ''APPA'' or ''Tunney Act''), the United States of America files this Competitive Impact Statement related to the proposed Final Judgment filed in this civil antitrust proceeding.

I. Nature and Purpose of Proceedings

On January 7, 2025, the United States filed a Complaint against Defendants XCL Resources Holdings, LLC (''XCL''), Verdun Oil Company II LLC (''Verdun''), and EP Energy LLC (''EP'') (together, ''Defendants''), related to XCL and Verdun's acquisition of EP. The Complaint alleges that Defendants violated Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the ''HSR Act'').

The Complaint alleges that XCL and Verdun acquired EP, through a transaction in excess of the then-applicable statutory thresholds, without observing the required HSR Act waiting period. The HSR Act provides that ''no person shall acquire, directly or indirectly, any voting securities of any person'' exceeding certain thresholds until that person has filed pre-acquisition notification and report forms with the Department of Justice and the Federal Trade Commission (collectively, the ''federal antitrust agencies'' or ''agencies'') and the post-filing waiting period has expired. 15 U.S.C. 18a(a). A key purpose of the notification and waiting period is to protect consumers and competition from potentially anticompetitive transactions by providing the agencies an opportunity to conduct an antitrust review of proposed transactions before they are consummated.

At the same time the Complaint was filed, the United States also filed a Stipulation and proposed Final Judgment. Under the proposed Final Judgment, which is explained more fully below, Defendants are prohibited from engaging in specified conduct during the term of the order and are required to pay a civil penalty to the United States in the amount of $5,684,377. The proposed Final Judgment is designed to deter HSR Act violations by XCL, Verdun, and similarly situated acquirers.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and punish violations thereof.

II. Description of the Events

A. XCL and Verdun's acquisition of EP

On July 26, 2021, XCL and Verdun agreed to acquire EP for approximately $1.4 billion. Defendants are engaged, among other things, in the development, production, and sale of crude oil in the United States. XCL operates in the Uinta Basin of Utah. Verdun operates in the Eagle Ford area of Texas. EP operates in both the Uinta Basis and the Eagle Ford area. Shortly thereafter, Defendants' parent entities filed the pre-acquisition Notification and Report forms required by Section 7A of the Clayton Act. After reviewing the parties' filings, the Federal Trade Commission (''FTC'') opened an investigation into the competitive effects of the proposed transaction. XCL and EP were two of four significant oil and gas development and production companies in northeast Utah's Uinta Basin. The FTC alleged in its complaint that, after the acquisition of EP, if XCL reduced the volume of crude oil that it supplied to Salt Lake City, Salt Lake City area refiners would be forced to pay more for Uinta Basin waxy crude oil. Ultimately, the FTC obtained a consent agreement resolving its concerns about the impact of the transaction on competition in the market for the development, production, and sale of waxy crude oil in the Uinta Basin area of Utah. The consent agreement required Defendants to divest all of EP's Utah operations to a qualified third-party operator, Crescent Energy. Entry of the consent agreement terminated the HSR Act waiting period on March 25, 2022. XCL and Verdun consummated the transaction on March 30, 2022, and EP is now a wholly owned subsidiary of Verdun.

B. Defendants' alleged violation of Section 7A

The HSR Act requirements apply to a transaction if, as a result of the transaction, the acquirer will ''hold'' assets or voting securities valued above the thresholds. Under HSR Rule 801.1(c), to ''hold'' assets or voting securities means ''beneficial ownership, whether direct, or indirect through fiduciaries, agents, controlled entities or other means.'' 16 CFR 801.1(c). Thus, under the Act, parties must make an HSR Act filing and observe a waiting period before transferring beneficial ownership of the assets or voting securities to be acquired. The Statement of Basis and Purpose accompanying the Rules explains that beneficial ownership is determined on a case-by-case basis, based on the indicia of beneficial ownership which include, among others, the right to obtain the benefit of any increase in value or dividends and the risk of loss of value. 43 FR 33,449 (July 31, 1978). A firm may also gain beneficial ownership by obtaining ''operational control'' of an asset.

The combination of XCL and Verdun's agreement to purchase EP and their assumption of key ordinary-course functions transferred beneficial ownership of EP's business to XCL and Verdun before they had fulfilled their obligations under the HSR Act. Specifically, the July 26, 2021 Purchase Agreement provided for the immediate transfer of control over key aspects of EP's business to XCL and Verdun, including granting XCL and Verdun approval rights over EP's ongoing and planned crude oil development and production activities and many of EP's ordinary-course expenditures. XCL put an immediate halt to EP's new well-drilling activities, so that XCL—not EP—could control the development and production plans for EP's drilling assets moving forward. Even though XCL and Verdun allowed EP to resume its own well-drilling and planning activities after Defendants realized that the FTC would investigate the transaction, the temporary halts resulted in EP having crude oil supply shortages in the following months. Defendants predicted these shortages and specifically provided in the Purchase Agreement that XCL and Verdun—not EP—would

bear all costs associated with EP's supply shortages.

XCL and Verdun also exercised operational control over EP by, *inter alia,* working directly with EP's customers on EP's behalf; requiring EP to provide competitively sensitive information to XCL and Verdun businesspeople; requiring approval of ordinary-course expenditures; and coordinating with EP on EP's contract negotiations with certain customers in the Eagle Ford production area. The illegal conduct lasted through October 27, 2021, when the Defendants executed an amendment to the Purchase Agreement which allowed EP to operate independently once again and in the ordinary course of business, without XCL's or Verdun's control over its day-to-day operations. The Defendants were in violation of the HSR Act for a period of 94 days, from when the Purchase Agreement was signed, on July 26, 2021, until the Purchase Agreement was amended, on October 27, 2021. Among other things, XCL's temporary halting of EP's development activities contributed to EP having crude oil supply shortages in September and October 2021 at a time when the United States was experiencing significant supply shortages and spiking crude oil prices due to sudden demand increases as COVID–19 restrictions eased. XCL and EP—direct competitors in the marketplace—then worked in concert to supply EP's customers to satisfy EP's customer supply commitments. Verdun also coordinated with EP on EP's contract negotiations with certain customers in the Eagle Ford production area. Specifically, Verdun observed that certain EP contracts included below-market prices and directed EP to raise them in the next contracting period. EP complied.

Agreements that transfer some indicia of beneficial ownership, even if common in an industry, may violate Section 7A if entered into while the buyer intends to acquire the asset. Entering into such agreements before the HSR Act waiting period expires defeats the purpose of the HSR Act by enabling the acquiring person to direct the acquired person's business to bring about the effects of an acquisition prior to completion of the agencies' antitrust review.

III. Explanation of the Proposed Final Judgment

The relief required by the proposed Final Judgment will prevent future violations of Section 7A of the Clayton Act of the type Defendants committed and secures a monetary civil penalty for XCL's, Verdun's, and EP's violation of Section 7A. The proposed Final Judgment sets forth prohibited and permitted conduct, a compliance program the Defendants must follow, and procedures available to the United States to determine and ensure compliance with the Final Judgment. Section XI provides that these conditions will expire ten years after the entry of the Final Judgment.

A. Prohibited Conduct

Section V of the proposed Final Judgment is designed to prevent future HSR Act violations of the sort alleged in the Complaint. During the ''pre-consummation period'' of any future HSR-reportable transaction—after executing an agreement or letter of intent for a transaction subject to the reporting requirements of the HSR Act and until the expiration of the statutory waiting period or abandonment of the transaction—the Defendants are prohibited from entering into any agreement with the other contracting party or parties to combine, merge, or transfer, in whole or in part, any operational or decision-making control over businesses, assets, or interests to be acquired. This injunction applies to all transactions subject to the reporting requirements of the HSR Act, regardless of the particular products involved or whether any other party to the transaction competes with the Defendants. The injunction also prevents an acquirer from obtaining approval rights or authority over ordinary-course decisions of the to-be-acquired entity or unrestricted access to certain categories of non-public information. To be clear, the injunction is not intended to cover all means of transferring beneficial ownership—which is assessed on a case-by-case basis depending on a variety of factors—but to broadly cover the Defendants' conduct in this matter and prevent recurrence.

B. Permitted Conduct

Section VI of the proposed Final Judgment identifies certain agreements and conduct that are permitted by the Judgment. Paragraphs VI(A) and VI(B) ensure that the decree will not be interpreted to forbid specified ''conduct of business'' covenants that are typically found in merger agreements. These are customary provisions found in most merger agreements and are intended to protect the value of the transaction and prevent a to-be-acquired person from wasting assets. Paragraph VI(C) ensures that the decree does not prevent certain ordinary-course agreements in the oil and gas industry. Paragraph VI(D) recognizes narrow exceptions to the restrictions on access to non-public information in Paragraph V(A)(4) for certain activities, such as participating in litigation.

C. Compliance

Sections VII and VIII of the proposed Final Judgment set forth various compliance procedures. Section VII sets up an affirmative compliance program directed toward ensuring compliance with the limitations imposed by the proposed Final Judgment and with the federal antitrust laws. The compliance program includes the designation of a qualified antitrust compliance officer who is required to ensure that the relevant Defendant distributes a copy of the Final Judgment to each current and succeeding director, office, employee, agent, or other person with the responsibility over sales, marketing, strategic planning, exploration and development, or mergers and acquisitions; briefs each such person regarding compliance with the Final Judgment and the antitrust laws as they apply to Defendants' activities; and obtains certification annually from each such person that he or she understands his or her obligations under the Final Judgment and agrees to abide by its terms. In addition, Defendants must provide a copy of the Final Judgment to certain parties entering a merger or acquisition with a Defendant prior to signing the definitive agreement. Section VII of the proposed Final Judgment further requires the compliance officer to certify to the United States that Defendant is in compliance and to report any violations of the Final Judgment.

To facilitate monitoring of Defendants' compliance with the Final Judgment, Section VIII grants DOJ access, upon reasonable notice, to Defendants' records and documents relating to matters contained in the Final Judgment. Defendants must also make its personnel available for interviews or depositions regarding such matters. In addition, Defendants must, upon request, prepare written reports relating to matter contained in the Final Judgment.

D. Civil Penalties

The proposed Final Judgment imposes a $5,684,377 civil penalty for Defendants' violation of the HSR Act. The United States adjusted the penalty downward from the maximum permitted under the HSR Act in part because the Defendants were willing to resolve the matter by consent decree and avoid a prolonged investigation and litigation. The relief will have a beneficial effect on competition because

it will deter future instances in which parties seek to immediately acquire control of an independent competitive presence before filing the required pre-acquisition notifications with the agencies and observing the required waiting period. At the same time, the penalty will not have any adverse effect on competition.

IV. Remedies Available to Potential Private Litigants

There is no private antitrust action for HSR Act violations; therefore, entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust action.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the Defendants have stipulated that the proposed Final Judgment may be entered by this Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of the decree upon this Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or within sixty (60) days of the first date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with this Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet website and, under certain circumstances, published in the **Federal Register**. Written comments should be submitted to: Maribeth Petrizzi, Special Attorney, United States, c/o Federal Trade Commission, 600 Pennsylvania Avenue NW, CC–8416, Washington, DC 20580, Email: *bccompliance@ftc.gov.*

The proposed Final Judgment provides that this Court retains jurisdiction over this action, and the parties may apply to this Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

As an alternative to the proposed Final Judgment, the United States considered a full trial on the merits against the Defendants. The United States is satisfied, however, that the relief required by the proposed Final Judgment will remedy the violation alleged in the Complaint and deter violations by similarly situated entities in the future. Thus, the proposed Final Judgment achieves all or substantially all of the relief the United States would have obtained through litigation but avoids the time, expense, and uncertainty of a full trial on the merits.

VII. Standard of Review Under the Appa for the Proposed Final Judgment

Under the Clayton Act and APPA, proposed Final Judgments, or ''consent decrees,'' in antitrust cases brought by the United States are subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment is ''in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

Id. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one, as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States v, U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting the government has broad discretion of the adequacy of the relief at issue); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's Complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not ''make de novo determination of facts and issues.'' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted);; *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3.

Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted). ''The court should also bear in mind the *flexibility* of the public interest inquiry: the court's function is not to determine whether the resulting array of rights and liabilities is the one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted); *see also United States* v. *Deutsche Telekom AG,* No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Microsoft,* 56 F.3d at 1456. ''The Tunney Act was not intended to create a disincentive to the use of the consent decree.'' *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft,* 56 F.3d at 1461 (recognizing courts should give ''due respect to the Justice Department's . . . view of the nature of its case''); *United*

States v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' (internal citations omitted)); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.''). The ultimate question is whether ''the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.''' *Microsoft,* 56 F.3d at 1461 (*quoting W. Elec. Co.,* 900 F.2d at 309).

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (concluding that ''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' 489 F. Supp. 2d at 15.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using judgments proposed by the United States in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it enacted the Tunney Act in 1974. As Senator Tunney explained: ''The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). ''A court can make its public interest determination based on the competitive impact statement and response to public comments alone.'' *U.S. Airways,* 38 F. Supp. 3d at 76 (citing *Enova Corp.,* 107 F. Supp. 2d at 17).

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Date: January 7, 2025
Respectfully Submitted,

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The National Advanced Mobility Consortium, Inc.

Notice is hereby given that, on October 10, 2024, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The National Advanced Mobility Consortium, Inc. (''NAMC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. On February 3, 2015, the RTC officially changed its name to NAMC. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Abaco Systems Inc., Huntsville, AL; ACP Technologies, LLC, St. Clair Shores, MI; Acutronic USA, Inc, Pittsburgh, PA; AEF-Performance, LLC, Picayune, MS; AIVOT Robotics, Inc., Seattle, WA; All Foam Products Co, Middlefield, OH; Amazon Web Services, Seattle, WA; American Lithium Energy Corporation, Carlsbad, CA; American Tooling Center, Inc., Lansing, MI; Amphenol Borisch Technologies, Grand Rapids, MI; Ascent AeroSystems, Wilmington, MA; ATA Engineering, Inc, San Diego, CA; ATI, Arlington, VA; AVL Mobility Technologies, Inc., Plymouth, MI; Banks Technologies, Azusa, CA; Beast Code, LLC., Fort Walton Beach, FL; Belding Tool and Machine, Belding, MI; Bevilacqua Research Corporation, Huntsville, AL; BlueSky Mast, Inc., Largo, FL; Bosch Rexroth Corporation, Bethlehem, PA; Buffalo Armory Group, LLC, Buffalo, NY; Cambium Biomaterials, Mojave, CA; Canis Automotive Labs Inc, Highlands Ranch, CO; Canoo Technologies Inc., Torrance, CA; Clear Align, Eagleville, PA; Compound Eye Inc., Redwood City, CA; Computer Access Technologies, LLC, Colorado Springs, CO; CoVar, McLean, VA; Cryptic Vector, Liberty Township, OH; CTC Enterprise Ventures Corporation, Johnstown, PA; Cubic Defense Applications Inc., San Diego, Ca; Cummings Aerospace, Inc., Huntsville, AL; Curtiss Wright 901D, Monsey, NY; Curtiss-Wright (Teletronics Technology Corp), Newtown, PA; CVX Instruments, LLC, Charlevoix, MI; D–2 Incorporated, Bourne, MA; D'Angelo Technologies, LLC, Dayton, OH; Detroit Manufacturing Systems, LLC., Detroit, MI; Diversified Technologies, Inc., Bedford, MA; Doodle Labs, LLC, Marina Del Rey, CA; DTCUBED, LLC, Sewell, NJ; Duality Robotics, Inc., San Mateo, CA; Dynetics, Inc., Huntsville, AL; Easy Aerial, Brooklyn, NY; ELC Industries, d.b.a. Aurora Defense Group, Aurora, IL; Emelody Worldwide Inc., Peachtree Corners, GA; esc Aerospace US, Inc., Orlando, FL; Florida Institute for Human & Machine Cognition, Pensacola, FL; FN America, LLC, MCLEAN, VA; Galley Power Inc, Hudson, MA; GE Aviation Systems, LLC, Grand Rapids, MI; General Technical Services, LLC, Wall