



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Gordon Moon  
State of Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Moon:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. We understand that you are concerned that the prior approval provisions in the proposed order will harm competition, reduce XCL's investment in the Uinta Basin, and harm land and mineral owners. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for

the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



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WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Allan E. Smith, President  
Utah Royalty Owners Association

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Smith:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

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Office of the Secretary

September 13, 2022

Silver Eagle Refining, Inc.  
Woods Cross, Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Commenter:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

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September 13, 2022

RIG II, LLC

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

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The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available

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September 13, 2022

Elyse Fontaine  
State of California

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Ms. Fontaine:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

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September 13, 2022

Shelley Dawson  
State of California

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Ms. Dawson:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

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The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

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April J. Tabor  
Secretary



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WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Don Hamilton  
Star Point Enterprises, Inc.  
State of Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Hamilton:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus

protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



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WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Craig Peterson  
Salt Lake City, Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Peterson:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future, and that you also disagree with the Commission's decision to require EnCap Energy Capital Fund XI, L.P. to divest EP Energy LLC's ("EP Energy") Utah assets. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus

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September 13, 2022

Public Comment No. 11

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Anonymous Commenter:

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The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available

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September 13, 2022

Public Comment No. 12

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

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Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Greg Todd, Chairman  
Irene Hansen, Member  
Gregory Miles, Member  
Duchesne County Commission  
Duchesne, Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Todd, Ms. Hansen, and Mr. Miles:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future, and that you also disagree with the Commission's decision to require EnCap Energy Capital Fund XI, L.P. to divest EP Energy LLC's ("EP Energy") Utah assets. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy's Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future

acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Max Anderson  
State of Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Anderson:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

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The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary





UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Roger Doxey  
State of Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Doxey:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

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The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Mike Giannini  
Raleigh, North Carolina

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Giannini:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future, and that you also disagree with the Commission's decision to require EnCap Energy Capital Fund XI, L.P. to divest EP Energy LLC's ("EP Energy") Utah assets. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy's Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from

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By direction of the Commission.

April J. Tabor  
Secretary



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Brent Brotherson  
State of Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Brotherson:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

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By direction of the Commission.

April J. Tabor  
Secretary



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FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Grant D. Green  
Partner  
Steven S. Toeppich & Associates, PLLC

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Green:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus

protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary





UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Lear & Lear, PLLC

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Commenter:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available

at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Mark W. Hemphill  
President  
Uinta Basin Railway, LLC

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Hemphill:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL and Crescent Energy Company ("Crescent") from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. To ensure that Crescent operates the divested EP Energy assets in a competitive manner and that Crescent does not sell the assets to a buyer that would result in increased concentration and higher energy prices for Utahns, the

proposed Order also requires Crescent to obtain prior approval from the Commission before transferring all or substantially all of the divestiture assets to (i) any buyer for the first three years after Crescent acquires the divestiture assets; and (ii) a buyer engaged in the development, production, or sale of waxy crude in the Uinta Basin for the seven years following the initial three year period. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap, or Crescent's future transfer of the divestiture assets, do not substantially lessen competition for the development, production and sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Marilyn Edmunds  
State of Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Ms. Edmunds:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Edward Hatch  
Vice President of Business Strategy  
Big West Oil

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Hatch:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus

protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary





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WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Andrew Winterton

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Winterton:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available

at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



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WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Hyrum Winterton

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Winterton:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available

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The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

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April J. Tabor  
Secretary



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WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Liberty Pioneer Energy Source, Inc.

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Commenter:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available

at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

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April J. Tabor  
Secretary



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WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Sharee Page  
State of Wyoming

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Ms. Page:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

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The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary





UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Alarik F. Myrin  
Myrin Ranch, Inc.  
Altamont, Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Myrin:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future, and that you also disagree with the Commission's decision to require EnCap Energy Capital Fund XI, L.P. to divest EP Energy LLC's ("EP Energy") Utah assets. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for

the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



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FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Shane Shiner  
State of Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Shiner:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

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The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



UNITED STATES OF AMERICA  
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WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Angeline Ady  
State of Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Ms. Ady:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission remove these requirements in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See*

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The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary



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WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2022

Wesley Adams  
Assistant Director – Oil & Gas  
Utah School and Institutional Trust Lands Administration  
Salt Lake City, Utah

**RE: *In the Matter of EnCap Investments, L.P., Docket No. C-4760***

Dear Mr. Adams:

Thank you for commenting on the Federal Trade Commission's proposed consent order in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the agency's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii).

The proposed order requires XCL Resources Holdings, LLC ("XCL") to obtain prior approval from the Commission before making certain future acquisitions that involve significant waxy crude production or land interests in the Uinta Basin over the next ten years. We understand from your comment that you are concerned that the proposed consent order restricts XCL from taking certain actions without Commission approval in the future. You request that the Commission consider how these requirements will affect Utah public schools and other Utah beneficiaries of the Utah School and Institutional Trust Lands Administration in the final consent order. The Commission appreciates your concerns.

The Commission took action in this instance because XCL, through EnCap Investments, L.P. and EnCap Energy Capital Fund IX, L.P. (collectively, "EnCap"), sought to acquire EP Energy Corp.'s ("EP Energy") Utah assets, which would have eliminated head-to-head competition between two of only four significant developers, producers and sellers of Uinta Basin waxy crude oil to Salt Lake City refiners. XCL's own documents revealed that it sought this deal to "try to take over . . . Utah" and stated that ". . . the Uinta is . . . largely controlled by three operators." The Commission alleged that, if this deal had gone through, XCL would have been able to increase costs of waxy crude oil to Salt Lake City refiners, who would have been forced in turn to pass on those higher costs in the form of higher gasoline and diesel prices to Utahns. As a consequence, the Commission sought to remedy the anticompetitive effects of the proposed transaction by ordering XCL to divest EP Energy's business and assets in Utah to Crescent Energy Company, a new competitor in that marketplace. But, given the evidence in this investigation revealing XCL's efforts to "dominate" this marketplace, the highly concentrated nature of this market, and concern that further deals in this marketplace could harm Utahns by further restricting competition for the sale of Uinta Basin waxy crude to Salt Lake City refiners, the Commission determined that XCL and EnCap would also have to gain prior approval of certain future acquisitions in this marketplace. Prior approval is warranted in this

instance to ensure that any future acquisitions by XCL or EnCap do not lessen competition for the development, production or sale of waxy crude oil in Utah in violation of antitrust laws, thus protecting Utahns from anticompetitive price increases that could stifle its economic growth. *See* Statement of the Commission on Use of Prior Approval Provisions in Merger Orders, available at <https://www.ftc.gov/legal-library/browse/statement-commission-use-prior-approval-provisions-merger-orders>.

The Commission welcomes public input on competition and consumer protection issues, including the comments submitted in this matter. After carefully considering your comment, along with the others submitted in this proceeding, we conclude that the public interest is best served by issuing the proposed order in this matter in final form without alteration. The final Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

April J. Tabor  
Secretary