

**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>In re:</b>	§	<b>Case No. 16-31928</b>
	§	
<b>ENERGY XXI LTD, et al.,</b>	§	<b>Chapter 11</b>
	§	
<b>Debtors.<sup>1</sup></b>	§	<b>Jointly Administered</b>

**NOTICE OF SUBPOENA TO TESTIFY AT A DEPOSITION IN A BANKRUPTCY  
CASE (OR ADVERSARY PROCEEDING) AND PRODUCE DOCUMENTS DIRECTED  
TO MARK METTS**

**PLEASE TAKE NOTICE THAT**, pursuant to Rules 30 and 45 of the Federal Rules of Civil Procedure, as made applicable pursuant to Rules 7030 and 9016 of the Federal Rules of Bankruptcy Procedure, the Official Committee of Unsecured Creditors, by and through its undersigned counsel, will serve the attached Subpoena directing non-party witness Mark Metts to: (1) produce the documents listed on Schedule A to the attached Subpoena and (2) appear to testify for deposition upon oral examination on September 16, 2016 at 1:00 pm (CST) at Sidley Austin LLP, 1000 Louisiana Street, Suite 6000, Houston, Texas 77002. The deposition will continue until complete and be taken pursuant to all applicable rules of the Court before a notary public or other such person authorized by law to administer oaths. The deposition will be

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<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers are: Anglo-Suisse Offshore Pipeline Partners, LLC (9562), Delaware EPL of Texas, LLC (9562), Energy Partners Ltd., LLC (9562), Energy XXI GOM, LLC (0027), Energy XXI Gulf Coast, Inc. (8595), Energy XXI Holdings, Inc. (1638), Energy XXI, Inc. (2108), Energy XXI Leasehold, LLC (8121), Energy XXI Ltd (9286), Energy XXI Natural Gas Holdings, Inc. (7517), Energy XXI Offshore Services, Inc. (4711), Energy XXI Onshore, LLC (0308), Energy XXI Pipeline, LLC (5863), Energy XXI Pipeline II, LLC (8238), Energy XXI Services, LLC (3999), Energy XXI Texas Onshore, LLC (0294), Energy XXI USA, Inc. (8552), EPL of Louisiana, L.L.C. (9562), EPL Oil & Gas, Inc. (9562), EPL Pioneer Houston, Inc. (9749), EPL Pipeline, L.L.C. (1048), M21K, LLC (3978), MS Onshore, LLC (8573), Natural Gas Acquisition Company I, LLC (0956), Nighthawk, L.L.C. (9562), and Soileau Catering, LLC (2767). The location of the Debtors' U.S. corporate headquarters and the Debtors' service address is: 1021 Main Street, Suite 2626, Houston, Texas 77002.

recorded by stenographic means. The deposition may be accessed via the following conference dial-in number and access code: 1-877-205-3155, access code 107484.

Dated: September 13, 2016

Respectfully submitted,

/s/ Justin A. Levy

Mitchell A. Seider (TX 18000550)

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-and-

HELLER, DRAPER, PATRICK, HORN &  
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/s/ Tristan Manthey

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*Counsel for the Official Committee of  
Unsecured Creditors*

**CERTIFICATE OF SERVICE**

I certify that on September 13, 2016, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Tristan Manthey

Tristan Manthey

UNITED STATES BANKRUPTCY COURT

Southern

District of

Texas

In re Energy XXI, Ltd., et al

Debtor

(Complete if issued in an adversary proceeding)

Case No. 16-31928

Chapter 11

Plaintiff

v.

Adv. Proc. No.

Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION  
IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Mark Metts, c/o Tracy N. LeRoy, Sidley Austin LLP, 1000 Louisiana Street, Suite 6000, Houston, Texas 77002

(Name of person to whom the subpoena is directed)

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

PLACE	DATE AND TIME
Sidley Austin LLP, 1000 Louisiana Street, Suite 6000, Houston, Texas 77002	09/16/2016 1:00 pm

The deposition will be recorded by this method:

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:  
See Schedule A attached

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 9/13/2016

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Amy C. Quartarolo

Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party)  
UCC, who issues or requests this subpoena, are:

Amy C. Quartarolo, Latham & Watkins, 355 South Grand Avenue, Los Angeles, CA 90071

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

**PROOF OF SERVICE**

**(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)**

I received this subpoena for *(name of individual and title, if any)*: \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☒ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information concerning attempted service, etc.:

**Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)**  
**(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)**

**(c) Place of compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises, at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...

(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

## **SCHEDULE A**

### **DEFINITIONS**

1. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

2. “Communication” is a subset of “document” and means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise) and, with respect to oral communications, includes any document evidencing the date, participants, subject matter, and content of any such oral communication, including, but not limited to, transcripts, minutes, notes, audio, video, and electronic recordings, telephone records, and calendar entries.

3. “Concerning,” “related to,” and “reflecting” mean having any relationship or connection to, concerning, relating to, related to, being connected to, commenting on, responding to, containing, constituting, showing, memorializing, describing, analyzing, reflecting, pertaining to, comprising, composing, identifying, involving, discussing, evidencing, or otherwise establishing a reasonable, logical, or causal connection.

4. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), made applicable to this proceeding by Rule 7034 of the Federal Rules of Bankruptcy Procedure, including but not limited to, any kind of written, audio, or graphic matter, however produced or reproduced, whether or not sent or received, including, but not limited to, writings, communications, contracts, reports, lists, presentations, pro formas, analyses, spreadsheets, correspondence, memoranda, e-mail, recordings, telephone records, notes, charts, graphs, drawings, photographs, telephone records, voice mail, audio and video recordings, data compilations, computer databases, records, and any information generated or stored in electronic form. In producing any document in response to this Subpoena to Produce Documents, you shall

produce (i) all drafts of any responsive documents, and (ii) all marked, annotated, or non-identical copies of any responsive documents.

5. “EXXI” means Energy XXI Ltd. and its advisors, agents, attorneys, accountants, consultants, employees, experts, investment bankers, representatives, and other persons acting, or who have acted, on behalf of the foregoing entities or individuals referenced in this definition.

6. “Loan Investigation” means the internal investigation initiated by the Energy XXI Ltd. Board of Directors into loans from individuals affiliated with vendors of Energy XXI Ltd. obtained by John D. Schiller, Jr.

7. “Notes” means any memorialized record of facts, topics or thoughts.

8. “SEC” means the U.S. Securities & Exchange Commission.

9. “You” or “your” means Mark Metts and your advisors, agents, attorneys, accountants, consultants, directors, employees, experts, officers, investment bankers, representatives, and other persons acting, or who have acted, on your behalf or on the behalf of the individuals referenced in this definition.

### **INSTRUCTIONS**

1. You shall produce promptly any and all responsive documents that are within your possession, custody, or control (or within the possession, custody, or control of anyone acting on your behalf), including but not limited to documents, wherever located, within the possession, custody, or control of your advisors, agents, attorneys, accountants, consultants, employees, experts, representatives, and other persons acting, or who have acted, on your behalf or on the behalf of the individuals referenced in this definition.

2. If you object to any part of this Subpoena to Produce Documents, you shall produce all documents that are responsive to the portions of any of the Subpoena to which the objection does not apply.



3. If any documents are withheld from production on the alleged grounds of privilege or immunity (whether under common law, statute, or otherwise), you shall identify each document withheld from production in a written privilege log that provides: (a) the identity of each person who prepared and/or signed the document; (b) the identity of each person designated as an addressee; (c) the identity of each person who received any copy of the document; (d) the date of the document; (e) the subject matter of the document; (f) the type or nature of the document; and (g) the basis for withholding the document.

4. All documents shall be produced on a DVD or CD in TIFF format with OCR images (or some mutually agreeable alternative format).

5. If a document contains both privileged and non-privileged material, the non-privileged material must be disclosed to the fullest extent possible without thereby disclosing the privileged material. If a privilege is asserted with regard to part of the material contained in a document, the party claiming the privilege must clearly indicate the portions as to which the privilege is claimed. When a document has been redacted or altered in any fashion, identify as to each document the reason for the redaction or alteration, the date of the redaction or alteration, and the person performing the redaction or alteration. Any redaction must be clearly visible on the redacted documents.

6. In the event that any document called for by this Subpoena to Produce Documents has been destroyed or discarded, that document is to be identified in writing by stating: (a) any address or any addressee; (b) any indicated or blind copies; (c) the document's date, subject matter, number of pages, and attachments or appendices; (d) all persons to whom the document was distributed, shown, or explained; (e) its date of destruction or discard, manner of destruction or discard, and reason for destruction or discard; (f) the persons who authorized and carried out such destruction or discard; and (g) whether any copies of the document presently exist and, if so, the name of the custodian of each copy.

7. Any copy of a document that varies in any way whatsoever from the original or from any other copy of the document, whether by reason of any handwritten mark or other notation or any omission, shall constitute a separate document and must be produced, whether or not the original of such a document is within your possession, custody, or control. A request for any document shall be deemed to include a request for all drafts thereof, and all revisions and modifications thereto, including any red-lined versions or document comparisons, in addition to the document itself. Each document is to be produced in its entirety, without abbreviation or expurgation.

8. In producing documents, all documents that are physically attached to each other when located for production shall be left so attached. Documents that are segregated or separated from other documents, whether by inclusion of binders, files, subfiles, or by use of dividers, tabs, or any other method, shall be left so segregated or separated when produced in response to this Subpoena to Produce Documents. Documents shall be produced in the order in which they were maintained and in the file where found. If no document exists that is responsive to a particular request, you shall so state in writing.

9. Unless otherwise specified, the time period covered by these requests is January 1, 2015 to the present.

**DOCUMENTS TO BE PRODUCED**

1. Non-privileged Documents or Communications related to EXXI from January 1, 2015.
2. Non-privileged Documents or Communications related to the Loan Investigation.
3. Communications with any individual interviewed in connection with the Loan Investigation.
4. Notes or other Documents drafted or prepared related to interviews conducted in connection with the Loan Investigation.
5. Communications with the SEC in connection with EXXI.
6. Communications with the SEC in connection with the Loan Investigation.