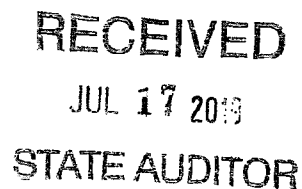


Courtesy Copy
For Attorney General's
office



RECEIVED

JUL 17 2019

U.S. ATTORNEY'S OFFICE
Albuquerque, NM

Maxwell papers
for special investigation of
Eddy-Lea Energy Alliance,
a government-owned
Limited Liability Company

Before *the* Office of *the* State Auditor

of New Mexico

Special Investigations Division

and copied to:

Office *of the* Attorney General

of New Mexico

Special Investigations Division

United States Attorney's Office

District *of* New Mexico

Fraud and Public Corruption Section

Nicholas R. Maxwell,
Complainant
PO Box 1064
Hobbs, NM 88241

July 17, 2019

*Dedicated to my dad, whose sense of justice was beyond his years; and,
to the people of Lea County, New Mexico, the reason I watch.*

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AFFIDAVIT

STATE OF NEW MEXICO)
)
COUNTY OF LEA)

I, Nicholas Maxwell, the affiant, being first duly sworn, depose and state as follows:

1. I reside in the County of Lea within the State of New Mexico and use the mailing address of PO Box 1064, Hobbs, NM 88241.
2. I understand that I am liable to be prosecuted, if this affidavit or any part of it is in anyway found to be incorrect or false.
3. The foregoing complaint to the New Mexico Office of the State Auditor requesting a special investigation of the Eddy-Lea Energy Alliance Limited Liability Company is true to the best of my knowledge and experience.

I affirm and declare under penalty of perjury under the laws of the State of New Mexico that the foregoing complaint is verified and accurate, so help me God.

Further affiant sayeth not.



BY: Nicholas Maxwell

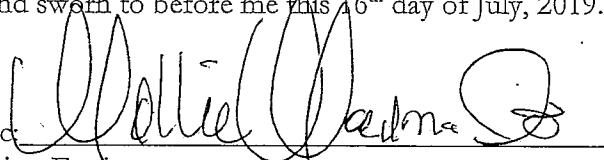
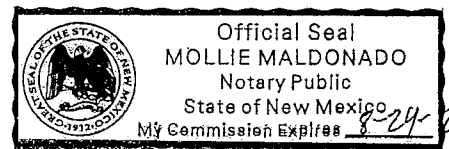
DATED: July 16, 2019

July 16, 2019

Subscribed and sworn to before me this 16th day of July, 2019.

Notary Public

My Commission Expires:


8-24-2019

END OF AFFIDAVIT

1. INTRODUCTION

COMES NOW, Nicholas Maxwell (“Complainant”), one of the people of New Mexico, and complains to the Office of the State Auditor (“Office”) of government fraud, waste, and abuse by public officials of the Eddy-Lea Energy Alliance Limited Liability Company (“ELEA”), a governmental entity¹ composed of an alliance² of southeastern New Mexico government agencies³, whose principal place of business is 117 East Broadway Street in Hobbs, NM 88240 and whose “management shall be consistent with the provisions of the operating agreement.”⁴

As explained below, Complainant believes a fair and equitable public bid was intentionally subverted through collusion, favored treatment, and other procurement irregularities giving rise to the appearance of less-than-arms-length dealings. Complainant requests the Office conduct a special investigation to identify government fraud, waste, and abuse over a specific “Request for Proposals”⁵ (“RFP”) issued by ELEA⁶ and published⁷ on December 26, 2015 with a submittal deadline of January 5, 2016. In response to the RFP, ELEA found a single proposal⁸ (“Bid”) to be completely in compliance⁹. The Bid may have been in the interest of a partnership between ELEA and Holtec International, Inc (“Holtec”) created by a Memorandum of Agreement from early 2015 (“2015 MoA”, *unavailable to Complainant*). Legal counsel to ELEA provided Holtec with revisions of documents that became part of the company’s Bid, and the record¹⁰ shows that public officials of ELEA may have undermined a competitive public bidding process.

¹ [Attachment I.1] Office’s opinion regarding ELEA dated September 14, 2012.
² [Attachment I.2] Amended and Restated Operating Agreement / Joint Powers Agreement for ELEA.
³ Lea County, Eddy County, and City of Hobbs, and City of Carlsbad (collectively, the “Members”).
⁴ [Attachment I.3] Articles of Organization for ELEA.
⁵ [Attachment I.4] RFP ELEA #01-(15-16), “Purchase of Site for ... Interim Nuclear Waste Storage Facility”.
⁶ [Attachment I.5] The record of a public meeting held by ELEA on December 22, 2015.
⁷ [Attachment I.6] News publications in Lea County with legal notice of RFP on December 26, 2015.
⁸ [Attachment I.7] Holtec’s proposal to RFP ELEA #01-(15-16).
⁹ [Attachment I.8] The record of a public meeting held by ELEA on January 15, 2016.
¹⁰ [Attachment I.9] Invoice to ELEA by the Rodey Law Firm for legal services, December 31, 2015 (“Invoice”).

II. FACTS

1. In 2014, the governing board of ELEA (“Board”) closed some of its public meetings¹¹ for the discussion of “Disposition of Real Property” and no items of action or public discussion involving any mention of Holtec, the 2015 MoA, or any other contractual agreement, except for the Board’s approval of independent public accounting services for fiscal year 2014 by Axiom, are recorded. The record indicated Mr. Mike Gallagher¹² represented Lea County in its capacity as fiscal agent for ELEA. An amended operating agreement went into effect for ELEA in 2014 and is herein referred in its amended form as the “Operating Agreement”¹³. A member of the public¹⁴ complained of procedural deficiencies of the Board and gave recommendations “in the interest of the public” during the Board’s meeting on September 29, 2014. Chairman Heaton stated that the suggestions “were valid and that the staff would work on them for the next public meeting.”

2. On January 14, 2015, the Board held its first meeting¹⁵ of the calendar year. After approving the meeting’s agenda, the Board, chaired by Mr. John Heaton¹⁶, would unanimously adopt a motion made by Mr. Gregg Fulfer¹⁷ and seconded by Mr. Sam Cobb¹⁸ to close the public meeting for the discussion of “Disposition of Real Property”. The discussion in closed session was the sole purpose of business recorded by the Board. No items of action or public discussion involving any mention of Holtec, the 2015 MoA, or any other contractual agreement were recorded. Several others¹⁹, including state senators²⁰, were recorded as having attended the public

¹¹ [Attachment II.1] The record of public meetings held by the Board in 2014.

¹² [Attachment II.2] Biography from EnergyPlex Conference 2019 for Mr. Michael Gallagher II.

¹³ See [Attachment I.2].

¹⁴ Mr. N. Rempe (“Mr. Rempe”).

¹⁵ [Attachment II.3] The record of a public meeting held by the Board on January 14, 2015.

¹⁶ [Attachment II.4] Biography from Holtec’s website for Mr. John Heaton (“Chairman Heaton”).

¹⁷ [Attachment II.5] Biography from Holtec’s website for Mr. Gregg Fulfer (“Mr. Fulfer”).

¹⁸ [Attachment II.6] Biography from Holtec’s website for City of Hobbs Mayor Sam Cobb (“Mayor Cobb”).

¹⁹ Mr. John Waters (“Mr. Waters”), Ms. Melinda Allen (“Ms. Allen”), Mr. James Waltersheid, Mr. T. Jones, Ms. A. Sanchez, Mr. R. Balter, and (later added) Ms. Bernadette Granger (“Ms. Granger”).

²⁰ Senator Carroll Leavell (“Senator Leavell”) and Senator Gay Kernan (“Senator Kernan”).

meeting. The public meeting lasted for ninety (90) minutes, almost entirely in a closed session, and was adjourned by Chairman Heaton when Mayor Cobb and Mr. Fulfer moved to the same.

3. On March 4, 2015, the Board held its second meeting²¹ of the calendar year. At the suggestion of Ms. Allen, a “staff member” of ELEA according to the record, the Board amended a motion to add Ms. Granger to list of others attending the Board’s last meeting. Mr. Chip Low²² gave reports on revenue and expenditures for the Board’s consideration. After the Board approved the bill for the expenditures for the 2015-16 fiscal year, Chairman Heaton entertained a motion to close the public meeting for the discussion of “Disposition of Real Property” and the motion to close was made by Mr. Jack Volpato²³ and seconded by Mrs. Susan Crockett²⁴. No items of action or public discussion during the meeting involving any mention of Holtec, the 2015 MoA, or any other contractual agreement were recorded. Chairman Heaton adjourned the meeting after seeing no other business before the Board when the meeting reconvened from closed session.

4. No record of meetings held by the Board between January 1, 2015 to April 30, 2015, aside from those two (2) meetings specifically mentioned in the two (2) paragraphs immediately above, were made available to Complainant despite his request²⁵ made for public records as authorized pursuant to the Inspection of Public Records Act (“IPRA”).

5. On April 25, 2015, it was reported²⁶ that a press conference would be held by ELEA and Holtec on Wednesday, April 29, 2015 at which point Chairman Heaton would announce a “nationally significant” partnership. The report claimed that neither “Heaton nor a Holtec spokeswoman reached by phone on Friday would confirm whether Holtec will be joining the push

²¹ [Attachment II.7] The record of a public meeting held by the Board on March 4, 2015.

²² [Attachment II.8] Lea County Finance Department webpage includes Mr. Chip Low (“Mr. Low”) as director.

²³ [Attachment II.9] Biography from Holtec’s website for Mr. Jack Volpato (“Treasurer Volpato”).

²⁴ [Attachment II.10] Biography from Holtec’s website for Mrs. Susan Crockett (“Secretary Crockett”).

²⁵ [Attachment II.11] Complainant’s IPRA request and responses of ELEA record custodian.

²⁶ [Attachment II.12] “New Mexico leaders push for high-level nuclear waste,” Santa Fe New Mexican.

for a waste site on the alliance’s property.” The report went on how Waste Control Specialists and the former partner of ELEA, AREVA²⁷, had published their joint effort that year to seek a license for a waste site just across the Texas-New Mexico state line near Andrews, Texas; and, according to that report, the pair were labeled as “chief competition” to ELEA “to become the dumpsite” for “highly radioactive waste”. In 2013, ELEA submitted to the Nuclear Regulatory Commission (“NRC”) a notice²⁸ of intent to submit a license application for a “Consolidated Used Nuclear Fuel Storage Facility”, and the record²⁹ held AREVA had been the “Industry Team Partner” of ELEA during that time. The report confirmed how AREVA had once been ELEA’s partner “in pursuing a dump in southeastern New Mexico” for about two years until the end of 2013 when the partnership would split by “mutual agreement” as released by a spokesperson of AREVA.

6. On April 29, 2015, a report³⁰ published the details of the joint news conference (“Conference”) between ELEA and Holtec held at the National Museum of Nuclear Science and History in Albuquerque. The report included the announcement made to the public during the Conference that Holtec had signed the 2015 MoA with ELEA “to seek needed federal licenses to build the facility on 32 acres currently owned by the alliance.” The report concluded the Members had worked to promote a nuclear waste storage facility in the area for years as they sought to build a network of nuclear industry-related facilities and “to diversify our economy as the oil and gas industry goes south,” as Treasurer Volpato was quoted saying in the report.

7. On April 30, 2015, Holtec published a company press release³¹ (“Announcement”) announcing the adoption of the 2015 MoA “to establish an underground consolidated interim

²⁷ [Attachment II.13] AREVA Company press release published October 5, 2012.

²⁸ [Attachment II.14] ELEA’s letter to NRC, “Notice of Intent to Submit a License Application for Consolidated Used Nuclear Fuel Storage Facility”.

²⁹ [Attachment II.15] The record of public meetings held by the Board on February 20, 2013 and March 20, 2013.

³⁰ [Attachment II.16] “Nuclear power plant waste headed to NM?” Albuquerque Journal.

³¹ [Attachment II.17] “Holtec Partners with ELEA, LLC in New Mexico...,” Holtec Highlights.

storage facility in southeastern New Mexico,” and a picture was included memorializing a quorum of the Board attending the Conference: Chairman Heaton, Treasurer Volpato, Mr. Jason Shirley³², Mr. Fulfer, and Mayor Cobb. According to the Announcement’s specification of the 2015 MoA, “Holtec will design, license, build and operate the storage facility,... an enlarged version of the HI-STORM UMAX system...,” and “ELEA will contribute the extensive site characterization data in its possession from its archives and serve the critical role of continuing community outreach.” The Announcement included remarks made during the Conference by the Board and others, including Chairman Heaton who in-part stated:

“This is really a big day for us. We have been working on this for a number of years... vetting this idea of an interim storage facility... And after doing that vetting... we think that Holtec is the best of the best and we are pleased that they would take this opportunity to join us in Southeastern New Mexico to put in a facility.”

“The Eddy-Lea Energy Alliance has diligently vetted the safety of Interim Storage and the companies doing it. We are very excited about the development of this partnership with Holtec International, who we believe has the premier interim storage system in the world. We are very proud of the fact that Holtec and us will be working together... There is an enormous amount of work ahead of us in terms of educating the people of New Mexico about interim storage, developing agreements with the state, and, of course, the NRC licensing process.”

The Announcement included remarks made by Mayor Cobb during the Conference who in-part stated:

³² [Attachment II.18] Biography from Holtec’s website for Mr. Jason Shirley (“Councilor Shirley”).

“We don’t enter into this lightly... Holtec has the best system in the world, their design is the safest, they have the most expertise of all of the partners that we talked to and we are very excited about them being part of [this]. On behalf of the city of Hobbs, we are proud to move forward with Holtec, have you as our partner... we look forward to getting this program moving forward.”

The Announcement included remarks made during the Conference by Senator Leavell, the registered agent of ELEA³³, who in-part stated:

“I want to add my strong support for the Lea Eddy Alliance and for this project. I think that... they [ELEA] have picked the best company in the Nation to handle a project of retrievable casks.”

Published in a separate report³⁴ the same day, Chairman Heaton was quoted saying:

“This agreement is a process that we will start through to develop a contract between ourselves and Holtec. Obviously, the State of New Mexico is critical in this whole issue.”

8. On May 5, 2015, Mr. Alan Hall³⁵, counsel to ELEA, began the Invoice³⁶. Mr. Hall also served as counsel for Urenco before the Lea County Commission³⁷ during a public meeting³⁸ for an industrial revenue bond proceeding. Mr. Hall charged a rate of \$235.00 per hour for his services, and his initial legal services provided to ELEA were valued at \$446.50 to “revise PPA”. The

³³ See [Attachment I.3].

³⁴ [Attachment II.19] “Plans announced for New Mexico used fuel store,” World Nuclear News.

³⁵ [Attachment II.20] Biography from Rodey Law Firm website for Mr. Alan Hall, Esq. (“Mr. Hall”).

³⁶ See [Attachment I.9].

³⁷ Mr. Fulfer, chair, Mr. Ron Black, vice chair, Mrs. Rebecca Long, Mr. James Britton, and Mr. Dale Dunlap.

³⁸ [Attachment II.21] The record of a public meeting held by the Lea County Commission, December 21, 2015.

Project Participation Agreement³⁹ (“PPA”) with revisions was emailed to Chairman Heaton by Mr. Hall. *See* Invoice.

9. On May 11, 2015, the Board held a public meeting⁴⁰ and discussion took place regarding the “HOLTEC press release”. While the Board conducted its business on an item recorded on the agenda of the public meeting as “Presentation of Bills and Approval – Chip Low”, the Board, led by Chairman Heaton, agreed to send all bills to Mr. Johnny Cope (“Mr. Cope”) and adopted a motion from Mr. Cope and seconded by Treasurer Volpato to approve payment of bills. Chairman Heaton commented that the Conference “was successful and very effective.” Mr. Low discussed the Axiom Audit with the Board, and Mayor Cobb with Mr. Cope moved to approve the Board’s contract with Axiom for the next year. After the Board discussed the Announcement, the public meeting was closed for the discussion of “Disposition of Real Property”. The public meeting lasted for approximately forty-three (43) minutes in the morning, and no other business was recorded by the Board after reconvening from closed session. The record indicated the presence of “staff members”⁴¹ of ELEA during the public meeting.

10. On May 29, 2015, Mr. Hall provided legal services to ELEA valued at \$94.00 to “review records for draft Holtec application” and to email the same to Chairman Heaton. *See* Invoice.

11. On June 1, 2015, Mr. Hall provided legal services to ELEA valued at \$305.50 to “work on invitation for applications”. *See* Invoice.

³⁹ Unavailable to Complainant.

⁴⁰ [Attachment II.22] The record of a public meeting held by the Board on May 11, 2015.

⁴¹ Mr. Waters, Mr. Low, Ms. Allen, and Ms. Anna Carrasco (“Ms. Carrasco”).

12. On June 2, 2015, Mr. Hall provided legal services to ELEA valued at \$164.50 to “revise invitation for applications” and to email the same to Chairman Heaton. *See Invoice.*

13. On June 10, 2015, Ms. Joy Russell⁴², an executive of Holtec’s corporate leadership serving as Vice President of Corporate Business Development, gave a presentation⁴³ at a session of the Nuclear Legislative Working Group Meeting⁴⁴ in Oak Ridge, Tennessee with the title “Holtec & ELEA, LLC’s Vision for a Centralized Interim Storage Facility”. The presentation by Ms. Russell included Holtec’s proposed solution for nuclear waste management utilizing the “ELEA Site in NM”.

14. On June 24, 2015, the Board held a public meeting⁴⁵ where “discussion took place regarding letters of support from elected officials regarding HOLTEC”. After the Board approved expenditures, Chairman Heaton gave a report and thanked the Board and others⁴⁶. The Board held an election of officers and Mr. Monty Newman (“Mr. Newman”)⁴⁷ was elected by acclamation to chair the Board, and Chairman Heaton was elected to be the Board’s vice-chairman. The Board closed the public meeting for a discussion of “Disposition of Real Property”. The record indicated the presence of “staff members” of ELEA⁴⁸ during the public meeting.

15. On July 24, 2015, Mr. Hall provided legal services to ELEA valued at \$329.00 to review “Holtec comments” on the PPA. Mr. Hall emailed Chairman Heaton about a conference call to discuss the same and prepared a “chronological table of draft documents”. *See Invoice.*

⁴² [Attachment II.23] Biography from Holtec’s website for Ms. Joy Russell (“Ms. Russell”).

⁴³ [Attachment II.24] Holtec’s presentation as presented by Ms. Russell on June 10, 2015.

⁴⁴ [Attachment II.25] Agenda for Nuclear Legislative Working Group meeting in Oak Ridge, Tennessee.

⁴⁵ [Attachment II.26] The record of a public meeting held by the Board on June 24, 2015.

⁴⁶ The others were Mr. Fulfer of the Board, specifically, and Mr. Waters, Mr. Low, and Lea County.

⁴⁷ [Attachment II.27] “Monty Newman talks health care, immigration, oil and gas,” Carlsbad Current-Argus.

⁴⁸ Mr. Waters, Mr. Low, and Ms. Carrasco.

16. On July 27, 2015, Mr. Hall provided legal services to ELEA valued at \$352.50 to review Chairman Heaton’s comments on the “Holtec revisions” to the PPA. Mr. Hall emailed Chairman Heaton about the same and had a “lengthy” call with Chairman Heaton. Some of the work done by Mr. Hall was redacted from the Invoice. *See* Invoice.

17. On July 30, 2015, Mr. Hall provided legal services to ELEA valued at \$211.50 to hold a conference call with Chairman Heaton and Mr. Newman. Mr. Hall reviewed “deeds to ELEA of project site.” Some of the work done by Mr. Hall was redacted from the Invoice. *See* Invoice.

18. On August 3, 2015, Holtec submitted to the NRC a notice⁴⁹ of intent to apply for a license under the project name, “ELEA Consolidated Interim Storage Facility”. Directors of the Board and “staff members” of ELEA, as well as local and state public officers and employees, are among those delivered a copy of the notice, including Chairman Heaton, Mr. Newman, Mr. Fulfer, Mayor Cobb, Mr. Cope, Treasurer Volpato, Secretary Crockett, Councilor Shirley, Mr. Gallagher, Mr. Low, Ms. Allen, Mr. Waters, Senator Kernan, Senator Leavell, Mr. Dale Janway⁵⁰, Mr. Hall, and others.

19. On August 7, 2015, Mr. Hall provided legal services to ELEA valued at \$94.00 to review the “Holtec revisions” to the PPA. *See* Invoice.

20. On August 9, 2015, Mr. Hall provided legal services to ELEA valued at \$235.00 to review the “Holtec changes” to the PPA. *See* Invoice.

⁴⁹ [Attachment II.28] Holtec’s letter to NRC, “Notice of Intent to License the ELEA Interim Storage facility ...”.

⁵⁰ [Attachment II.29] Biography from City of Carlsbad’s website for Mr. Dale Janway (“Mayor Janway”).

21. On August 10, 2015, Mr. Hall provided legal services to ELEA valued at \$329.00 to review open PPA matters and for a conference call about the PPA with Chairman John, Mr. Newman, Ms. Russell, and Mr. Andrew Ryan⁵¹. *See Invoice.*
22. On August 13, 2015, Mr. Hall provided legal services to ELEA valued at \$775.50 to review warranty deeds, to work on revisions to the PPA, to review the Local Economic Development Act (“LEDA”) concerning the time requirement for exercising security rights, and to email Chairman Heaton about the same. *See Invoice.*
23. On August 14, 2015, Mr. Hall provided legal services to ELEA valued at \$282.00 to work on revisions to the PPA. *See Invoice.*
24. On August 16, 2015, Mr. Hall provided legal services to ELEA valued at \$1104.50 to work on revisions to the PPA and to email the same to Chairman Heaton “et al”. *See Invoice.*
25. On August 18, 2015, Mr. Hall provided legal services to ELEA valued at \$399.50 to review the PPA in preparation for a conference call, and he called Chairman Heaton and “Holtec representatives”. Some of the work done by Mr. Hall was redacted from the Invoice. *See Invoice.*
26. On August 20, 2015, Mr. Hall provided legal services to ELEA valued at \$775.50 to hold a conference call about the PPA with ELEA and “Holtec representatives”. Mr. Hall worked on a “lengthy” email to Chairman Heaton and Mr. Newman about the “transfer of the project site to Holtec”. Some of the work done by Mr. Hall referencing LEDA was redacted from the Invoice. *See Invoice.*

⁵¹ [Attachment II.30] Biography from Holtec’s website for Mr. Andrew Ryan, Esq. (“Mr. Ryan”).

27. On August 21, 2015, Mr. Hall provided legal services to ELEA valued at \$376.00 to call Mr. Mark Adams⁵² about “mineral owner’s rights to use the surface” and to call Chairman Heaton and Mr. Newman. Mr. Hall provided an “email to Holtec about the nature of a phase 1 environmental assessment”. In the same day, Mr. Hall had a “brief” review of the Surface Owners Protection Act and emailed Chairman Heaton and Mr. Newman about mineral owner’s rights. Mr. Adams billed for his time at an hourly rate of \$300.00. Some of the work done by Mr. Hall was redacted from the Invoice. *See Invoice.*

28. On August 25, 2015, Mr. Hall provided legal services to ELEA valued at \$728.50 to draft the Land Purchase Option Agreement (“Option Agreement”) and would email the same to Chairman Heaton and Mr. Newman. *See Invoice.*

29. On August 26, 2015, Mr. Hall provided legal services to ELEA valued at \$470.00 to hold a call with Chairman Heaton and Mr. Newman about the Option Agreement draft. Mr. Hall would revise the Option Agreement and email the same to Holtec and ELEA. *See Invoice.*

30. On August 27, 2015, Mr. Hall provided legal services to ELEA valued at \$282.00 to conference call about the Option Agreement. *See Invoice.*

31. On August 29, 2015, Mr. Hall provided legal services to ELEA valued at \$94.00 to work on a “lengthy” email. Some of the work done by Mr. Hall was redacted from the Invoice. *See Invoice.*

32. On August 30, 2015, Mr. Hall provided legal services to ELEA valued at \$681.50 to finish email. According to the redacted Invoice, Mr. Hall would send something to Holtec and ELEA. Mr. Hall would revise the Option Agreement and email the same to all parties. *See Invoice.*

⁵² [Attachment II.31] Biography from Rodey Law Firm website for Mr. Mark Adams, Esq. (“Mr. Adams”).

33. On August 31, 2015, Mr. Hall provided legal services to ELEA valued at \$493.50 to conference call with ELEA and Holtec about the Option Agreement. Mr. Hall called Mr. Adams about a mineral owner's title search and emailed a Lea County title company about the same. *See Invoice.*

34. On September 2, 2015, Mr. Hall provided legal services to ELEA valued at \$70.50 to review "Heaton comments on August 31, 2015 conference call." *See Invoice.*

35. On September 3, 2015, Mr. Hall provided legal services to ELEA valued at \$658.00 to call with Chairman Heaton and Mr. Newman. Additionally, Mr. Hall researched "land use restriction or condition agreement between the State Land Office ("SLO") and Urenco". After conferring with a paralegal about researching the mineral ownership of the ELEA property, Mr. Hall emailed Chairman Heaton and Mr. Newman. Some of the work done by Mr. Hall was redacted from the Invoice. *See Invoice.*

36. On September 4, 2015, Mr. Hall provided legal services to ELEA valued at \$423.00 to confer with Mr. David Buchholtz⁵³. Mr. Hall conferred with Ms. Kim Wygant ("Ms. Wygant"), who was marked on the Invoice as an attorney who billed \$105.00 per hour, about the mineral lease information from the SLO. Mr. Hall reviewed SLO information, prepared a table of the same, and emailed the information to Chairman Heaton and Mr. Newman. Some of the work done by Mr. Hall was redacted from the Invoice. *See Invoice.*

37. On September 7, 2015, Mr. Hall provided legal services to ELEA valued at \$282.00 to review "Holtec's revisions" to the Option Agreement and emailed Chairman Heaton and Mr. Newman about the same. *See Invoice.*

⁵³ [Attachment II.32] Biography from Rodey Law Firm website for Mr. David Buchholtz, Esq.

38. On September 8, 2015, Mr. Hall provided legal services to ELEA valued at \$634.50 to conference call with Holtec about the Option Agreement. Mr. Hall called with Chairman Heaton and Mr. Newman about the same. Mr. Hall revised the Revenue Sharing Section (“Section 8”) and emailed the same to Chairman Heaton and Mr. Newman. Mr. Hall updated a document table. Mr. Hall called with Chairman Heaton and Mr. Newman about the revised Section 8 and emailed Holtec about status of the same. *See Invoice.*

39. On September 9, 2015, Mr. Hall provided legal services to ELEA valued at \$47.00 to confer with a paralegal about getting copies of mineral lease and rights of way from the SLO. *See Invoice.*

40. On September 10, 2015, Mr. Hall provided legal services to ELEA valued at \$188.00 to make calls with Mr. Newman about revenue sharing. Mr. Hall revised Section 8 and emailed it to Chairman Heaton and Mr. Newman. Mr. Hall emailed a revised Section 8 to Holtec. *See Invoice.*

41. On September 14, 2015, Mr. Hall charged other legal expenses to ELEA valued at \$489.58 for a request to the SLO for “Lea County leases, right of way and plats”. *See Invoice.*

42. On September 16, 2015, Center of Excellence for Hazardous Materials Management (“CEHMM”)⁵⁴, under the long-standing leadership of Chairman Heaton serving as President⁵⁵ and with Mr. Douglas Lynn serving as executive director, finished a mineral conflict analysis⁵⁶ which included a table of contents, a mineral ownership map of the project area and a map of potash leases of the same area, and a synopsis. Mr. Robert Forrest (“Mr. Forrest”), an organizer of ELEA⁵⁷, served as a board director for CEHMM.

⁵⁴ [Attachment II.33] New Mexico State filings of CEHMM.

⁵⁵ [Attachments II.34.1 – II.34.14] Tax forms of CEHMM.

⁵⁶ [Attachment II.35] Mineral conflict analysis of Eddy Lea Alliance Site dated September 16, 2015.

⁵⁷ *See* [Attachment I.3].

43. On September 21, 2015, Ms. Wygant provided legal services to ELEA valued at \$157.50 for the review and organization of leases, assignments, and right-of-way easements received from the SLO. *See Invoice.*

44. On September 29, 2015, Mr. Hall provided legal services to ELEA valued at \$705.00 to review mineral leases and other documents from the SLO and to revise a table to reflect the same. *See Invoice.*

45. On September 30, 2015, Mr. Hall provided legal services to ELEA valued at \$23.50 to revise a summary of mineral leases and easements obtained from the SLO and to email Chairman Heaton and Mr. Newman with the same. *See Invoice.*

46. On October 8, 2015, Mr. Hall provided legal services to ELEA valued at \$141.00 to prepare an updated version of the Option Agreement. Mr. Hall's work on that day also included email with Ms. Russell, Chairman Heaton, and Mr. Newman. *See Invoice.*

47. On December 3, 2015, Mr. Hall provided legal services to ELEA valued at \$47.00 for calls from and to Mr. Newman about availability for a Board meeting on December 7. *See Invoice.*

48. On December 6, 2015, Mr. Hall provided legal services to ELEA valued at \$70.50 for a review of various Holtec and LEDA documents. *See Invoice.*

49. On December 7, 2015, Mr. Hall provided legal services to ELEA valued at \$446.50 to call with Mr. Newman about attending the ELEA Board meeting which he attended by conference call. The Board held the public meeting⁵⁸ which was declared invalid due to a deficient meeting notification after discussion from Mr. Rempe. The record indicated no action was taken for the meeting nor the absence of Mr. Cope, Treasurer Volpato, and Councilor Shirley from the meeting.

⁵⁸ [Attachment II.36] The record of an invalid public meeting held by the Board on December 7, 2015.

The record indicated the presence of “staff members” of ELEA⁵⁹ during the public meeting. Mr. Hall emailed LEDA ordinances and the Operating Agreement to Chairman Heaton and Mr. Newman. *See Invoice.*

50. On December 9, 2015, staff from the Division of Spent Fuel Management held a partially closed pre-application meeting⁶⁰ with representatives from Holtec and ELEA at the U.S. NRC Headquarters in Rockville, MD. The purpose of the meeting was to discuss Holtec’s plans to apply “for a site-specific independent spent fuel storage installation license for an interim consolidated storage facility, to be located in Southeast New Mexico on land jointly owned by Eddy and Lea Counties.” Dr. Stefan Anton⁶¹, an executive of Holtec’s corporate leadership serving as Vice President of Engineering at Holtec, gave a presentation⁶² during the meeting summarizing the collaborative plans between ELEA and Holtec. According to the meeting summary, among those attending the meeting were: Chairman Heaton, six (6) representatives of Holtec, and representatives from industry competitors, EnergySolutions and AREVA.

51. On December 10, 2015, Mr. Hall provided legal services to ELEA valued at \$47.00 to call with Chairman Heaton about “document review”. *See Invoice.*

52. On December 11, 2015, Mr. Hall provided legal services to ELEA valued at \$117.50 to review the LEDA ordinances of the Members. *See Invoice.*

53. On December 12, 2015, Mr. Hall provided legal services to ELEA valued at \$1363.00 to review the ELEA certificate of organization and Operating Agreement, to review LEDA

⁵⁹ Mr. Waters, Mr. Low, Ms. Allen, and Ms. Carrasco.

⁶⁰ [Attachment II.37] The summary of pre-application meeting at NRC Headquarters, December 9, 2015.

⁶¹ [Attachment II.38] Biography from Holtec’s website for Dr. Stefan Anton (“Dr. Anton”).

⁶² [Attachment II.39] Holtec’s presentation as presented by Dr. Anton on December 9, 2015.

ordinances, to review statutory requirements for disposal of property, and to have “lengthy” email and memorandum to Chairman Heaton and Mr. Newman about the same. *See Invoice.*

54. On December 14, 2015, Mr. Hall provided legal services to ELEA valued at \$70.50 for a call from Mr. John Caldwell (“Mr. Caldwell”), the Lea County Attorney. Some of the work done by Mr. Hall was redacted from the Invoice. *See Invoice.*

55. On December 15, 2015, Mr. Hall provided legal services to ELEA valued at \$305.50 to conference call with Chairman Heaton and Mr. Newman about the procurement process for disposal of the project site. Mr. Hall also called Mr. Caldwell. Some of the work done by Mr. Hall was redacted from the Invoice. *See Invoice.*

56. On December 16, 2015, Mr. Hall provided legal services to ELEA valued at \$47.00 to start a review of the county RFP documents. *See Invoice.*

57. On December 18, 2015, Mr. Hall provided legal services to ELEA valued at \$1104.50 to work on the RFP. *See Invoice.*

58. On December 19, 2015, Mr. Hall provided legal services to ELEA valued at \$611.00 to work on the RFP and to email Chairman Heaton and Mr. Newman with the same. *See Invoice.*

59. On December 21, 2015, Mr. Hall provided legal services to ELEA valued at \$376.00 to call with Chairman Heaton and Mr. Newman about form of RFP. Mr. Hall emailed to Chairman Heaton and Mr. Newman the suggested motion approving the RFP. Mr. Hall reviewed sole source procurement requirements and revised procurement forms. *See Invoice.*

60. On December 22, 2015, the Board held a public meeting⁶³ to approve the issuance and publication of the RFP. Mr. Low and Mr. Hall attended the meeting by telephone. The five (5)

⁶³ *See [Attachment I.5].*

available directors of the Board attended by telephone, including Chairman Heaton, Treasurer Volpato, Mr. Fulfer, Secretary Crockett, and Mr. Newman. The record does not include members of the Board who were absent from the meeting, whom were Mr. Cope, Mayor Cobb, and Councilor Shirley. The record indicated the physical attendance of others, including Mr. Curtis Wynne, a reporter from the Hobbs local newspaper, Mr. ‘J.J.’ Murphy (“Mr. Murphy”), city manager of the City of Hobbs⁶⁴, Mr. Mike Stone (“Mr. Stone”), city attorney of the City of Hobbs, and Mr. Mike Barnes⁶⁵, the interim CEO⁶⁶ of the Economic Development Corporation of Lea County (“EDCLC”) and identified in the record as a “staff member” of ELEA. Lea County Finance Department was chosen to be the procurement agent for the RFP, and Mr. Hall advised ELEA regarding procurement, and according to the record, stated that the RFP would be published in the Lovington newspaper. Mr. Hall provided legal services to ELEA valued at \$188.00 to conference call during the public meeting and to call Ms. Kathy McLaughlin (“Ms. McLaughlin”), the Lea County procurement officer⁶⁷, about procurement documents. Mr. Hall reviewed the revised documents and modified the RFP form to add the Hobbs and Carlsbad newspapers. *See Invoice.*

61. On December 26, 2015, the notice of the RFP was published in local newspapers⁶⁸. The RFP included a page⁶⁹ titled “Specifications and Contractual Terms” that included the specification that a bidder “must describe a revenue sharing arrangement under which the Offeror will pay ELEA a portion of the net or gross revenues of the Project” as well as other conditions of sale provided for in the Option Agreement.

⁶⁴ [Attachment II.40] Office’s opinion regarding City of Hobbs dated January 30, 2017.

⁶⁵ [Attachment II.41] Homepage of the Mike Barnes Group.

⁶⁶ [Attachment II.42] “New Mexico Partnership CEO's moving on - but staying in state,” ABQ Business First.

⁶⁷ *See* [Attachment II.8].

⁶⁸ *See* [Attachment I.6].

⁶⁹ *See* [Attachment I.4].

62. On December 28, 2015, portions of the Bid were notarized, including the Non-Collusion Affidavit⁷⁰ (“Affidavit”).

63. On December 29, 2015, portions of the Bid were signed by Ms. Russell, including the Affidavit. Ms. Russell, being first duly sworn, deposed to the statements of fact in the Affidavit. The Related Party Disclosure Form included in the RFP was signed⁷¹ by president and chief executive officer of Holtec, Dr. Krishna P. Singh⁷². Mr. Hall provided legal services to ELEA valued at \$540.50 for a call from Chairman Heaton about potential confidentiality of portions of the RFP response. Mr. Hall researched and emailed to Chairman Heaton about the same. *See* Invoice.

64. On January 5, 2016, Holtec submitted the Bid on the deadline to Ms. McLaughlin as established by the RFP. Holtec included the Option Agreement with Section 8 as part of the Bid, a form not included in the RFP, and included a footer at the bottom reading “Holtec International Proposed Draft Agreement: January 5, 2016”. The Bid included the statements that “Holtec will partner with a qualified local company to develop Environmental Report. Holtec is currently reviewing proposals and will select a partner in short order.” The outcome was CEHMM was picked by Holtec as their environmental partner as evidenced by figure 3.1.2 in NRC documents⁷³.

65. On January 15, 2016, the Board held a public meeting⁷⁴ attended by all directors of the Board. “Staff members”⁷⁵ and others⁷⁶ were listed as present. A typo in the record incorrectly places the meeting in 2015, and the Board’s approval of minutes indicated that no other public

⁷⁰ See [Attachment I.7].

⁷¹ See [Attachment I.7].

⁷² [Attachment II.43] Biography from Holtec’s website for Dr. Krishna Singh (“Dr. Singh”).

⁷³ [Attachment II.44] Environmental Report submitted to NRC by Holtec.

⁷⁴ See [Attachment I.8].

⁷⁵ Mr. Waters, Mr. Tai Etcheverry, and Ms. Carrasco.

⁷⁶ Mr. Rempe, Ms. Granger, Mr. Murphy, and Mr. Stone.

meetings were held between June 24, 2015 and December 7, 2015. An RFP committee gave a report and the record showed that only one proposal was submitted to Ms. McLaughlin. The Bid was ranked by the Board and the record indicated that Chairman Heaton and Mr. Newman received the Bid and evaluated it. Chairman Heaton found the Bid to be completely in compliance before recommending the same be submitted in the minutes. Discussion took place regarding Holtec, and Chairman Heaton moved to adopt the resolution approving the sale of real property from ELEA to Holtec. Mr. Newman summarized the approval of the resolution to the Board and asked Mr. Waters to conduct a roll call vote. The resolution passed with full support. Chairman Heaton led a discussion on a “Legislative Memorial Endorsement” and adjourned the meeting with a second by Mr. Newman.

66. On March 25, 2016, a report⁷⁷ published the details of the dedication in Carlsbad, NM of the National Cave and Karst Research Institute building. It was reported that state representatives, officials, former mayors and more were in attendance for the dedication of the building in Chairman Heaton’s name. Among those present at the ceremony were Mr. Forrest and Mayor Janway, who read statements from former U.S. senators, according to the report.

67. On June 2, 2016, the Board held a public meeting⁷⁸ and expenditures⁷⁹ of the Board were presented for approval. Complainant was present and recorded a video⁸⁰ of the public meeting. A complete payment of the Invoice was authorized by the Board after a report was given by Mr. Low regarding Mr. Hall’s legal services. As Mr. Low finished his report, he inquired if there were any questions by the Board, and Mayor Cobb asked Mr. Newman if the legal services were provided for the “new articles of incorporation and MOUs” (or known as Memorandum of

⁷⁷ [Attachment II.45] “John Heaton honored with building”, Current-Argus article.

⁷⁸ [Attachment II.46] The record of the public meeting held by the Board on June 2, 2016.

⁷⁹ [Attachment II.47] Expenditure report of the Board including the Invoice.

⁸⁰ [Attachment II.48] Video of the public meeting held by the Board on June 2, 2016.

Understanding) and Mr. Newman confirmed. Mr. Cope commented that the cost of the legal services seemed high. The Board sat in silence for several seconds while Mr. Newman nodded his head, and Mr. Cope followed up his comment by asking if the Invoice had been looked over. Mayor Cobb replied to Mr. Cope that it was the first time he had seen the Invoice. A dialog was held between Mayor Cobb and Mr. Cope regarding Mr. Hall's work done by the Invoice which "encompassed most of the year of 2015" according to Mayor Cobb. Chairman Heaton and Mr. Newman confirmed that the Invoice covered about "six or seven months" of work that was incorporated into the final bill. Chairman Heaton described the Invoice as a "cumulative total for all the needs we had." Chairman Cobb asked Mr. Hall, who attended to the meeting by conference call, if the Invoice covered some of the legal expenses associated with the Option Agreement; and, as it were that Mr. Newman nodded towards Mayor Cobb while he waited for Mr. Hall's confirmation, Chairman Heaton interjected "Oh yes, it's almost all of it." Mr. Fulfer moved to approve the expenditures and Mr. Cope seconded the motion, which was unanimously approved by the Board. Later while the board discussed the budget, Mr. Cope asked if the Board had anticipated spending "\$25,000" in legal fees to which Mr. Newman replied he did not know if the Board did. Others attended the meeting⁸¹, and Mr. Steve Vierck, recorded as a "staff member" in the minutes, was attending his first public meeting of the Board after his recent recruitment⁸² to the EDCLC by the Mark Barnes Group. The public meeting was closed for "discussion of deposition of real property". Mr. Newman resigned from the Board during the public meeting.

68. On March 6, 2017, a bifurcated revision of the Option Agreement was filed with the Lea County Clerk as two (2) separate contracts ("Final Contracts")⁸³.

⁸¹ Mr. Steve Vierck, Mr. Waters, Mr. Charlie Benton, and Mr. Rempe.

⁸² [Attachment II.49] "The EDCLC Welcomes Steve Vierck as the new President & CEO," EDC Visions.

⁸³ [Attachment II.50] The Final Contracts.

III. ARGUMENTS

Complainant argues upon the facts, and the facts are incorporated as restated herein.

The Option Agreement submitted in the Bid by Holtec was paid for by the Board, drafted by Mr. Hall, and conferred to Holtec prior to the issuance of the RFP. Although the Bid indicated the Option Agreement was a draft agreement proposed by Holtec, the agreement originated as the Board's draft proposal, as evidenced by the kick back of Section 8, the revenue sharing section. Ms. Russell's Affidavit may be false: that the Bid may have been "made in the interest of or on behalf of [an] undisclosed person, partnership, company, association, or organization or corporation"; and, that Holtec, by Ms. Russell's actions, may have "directly or indirectly by agreement, communication or conference" with others "attempted to induce action prejudicial to the interest of ELEA or of any bidder [or] anyone else interested in the proposed contract." The Board's Option Agreement, drafted from the budget of ELEA, prepared by and through Mr. Hall, was delivered exclusively to Holtec for mutual benefit. Considering the extensive timeline of activities after a partnership was established by the 2015 MoA, including public presentations on the partnership, Chairman Heaton's attendance at the NRC headquarters with Holtec during a pre-application meeting in December, and the extensive legal services rendered by Mr. Hall to Holtec's benefit prior to the Board's acceptance of any proposal, the public bidding of the RFP may have been unfairly tilted by ELEA in favor of Holtec.

ELEA is owned by the Members. The operations of ELEA are funded by contributions made by the Members. The Members are public bodies of New Mexico funded by the taxpayers. The operations of ELEA are funded by the taxpayers of New Mexico. The Board's Option Agreement was funded by the taxpayers of New Mexico.

A. FAVORED TREATMENT

ELEA officials may have interjected themselves at times to provide or attempt to provide for Holtec to receive favorable treatment otherwise not afforded to others by the Board or the Members. For example, although there are records indicating that Mr. Hall provided legal services to ELEA which may have directly and indirectly benefited Holtec, there are no records suggesting competitors of Holtec received any indirect or direct benefits from Mr. Hall's tax-funded services. The converse may be reality: Holtec's competitors were unfairly excluded from a meaningful public bid. The public bid for the RFP may have been staged to insulate Holtec from any competition – a legal notice of the RFP was published: 1) once, on a Saturday, December 26, 2015, the day after Christmas, a major holiday celebrated across the nation, 2) in local newspapers but not in popular state or national newspapers for a larger reach, and 3) only for ten (10) days prior to the deadline. Holtec had a significant advantage over any other competitor during the procurement process because they were able to prepare the Bid to the specifications and qualifications of the RFP with help from Mr. Hall for several months prior to its deadline and at taxpayer's expense. Unfair practices may have resulted in a less-than-competitive procurement.

B. GOVERNMENTAL CONDUCT ACT

The Governmental Conduct Act ("GCA"), since it first became law in 1993, addresses numerous ethical issues by public employees. Over time the definition of persons as defined by GCA has been expanded to include government employees and public officers of local governments such as ELEA.

ELEA is a local government agency as defined by GCA.

The GCA's definition of a "public officer or employee" includes officers of the Board, who according to section 6.5.1 of the Operating Agreement, are eligible for per diem.

1. SIMPLEX DICTUM

The GCA helps to ensure that the people who operate state and local government and public institutions act honestly, diligently, transparently, fairly, within the limits of their lawful authority, and with integrity. The key that binds all these strands together is the concept of the *rule of law*, sometimes referred to as *a government of laws, not of men and women*. What these phrases signify is that the people who make and carry out the laws do so according to binding legal principles, not according to their personal interest and whims. Adherence to the rule of law is necessary for fair decisions by the government, respect for the government, meaningful voting and public petitions to the government, and the existence of personal liberties.

Power is never without responsibility; and, when authority derives in part from government's thumb on the scales, the exercise of that power by private persons becomes closely akin, in some respects, to its exercise by government itself.

2. PROHIBITED BIDDING

Section 13 of the GCA is titled 'Prohibited bidding'. The relevant statute reads:

“No... local government agency shall accept a bid or proposal from a person who directly participated in the preparation of specifications, qualifications or evaluation criteria on which the specific competitive bid or proposal was based. A person accepting a bid or proposal on behalf of a... local government agency shall exercise due diligence to ensure compliance with this section.”

ELEA accepted a bid or proposal from a person who may have directly participated in the preparation of specifications, qualifications or evaluation criteria on which the specific competitive bid or proposal was based.

ELEA accepted the Bid from Ms. Russell who represented Holtec in the public bid. Prior to public bidding, Ms. Russell and Mr. Hall communicated by telephone and email while the Option Agreement was being drafted. Ms. Russell received an updated copy of the Option Agreement from Mr. Hall on October 8, 2015, according to the Invoice. Mr. Hall worked on the RFP prior to its issuance by the Board, and Ms. Russell's kick back of the pre-discussed Option Agreement with Section 8 in the Bid indicates that she may have directly participated in the preparation of specifications, qualifications or evaluation criteria on which the Bid was based.

Chairman Heaton and Mr. Newman were involved with the acceptance of the Bid on the behalf of ELEA. Given the extensive history of public service behind both Chairman Heaton and Mr. Newman in state and local government within New Mexico, both may have failed to exercise due diligence to ensure compliance with section 13 of the GCA.

3. CONFLICTS OF INTEREST

Section 3 of the GCA is titled 'Ethical principles of public service; certain official acts prohibited; penalty'. The relevant statute in subsection C reads:

“Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service.”

Chairman Heaton may have failed to make reasonable efforts to avoid undue influence and abuse of office in public service. On January 15, 2016, Chairman Heaton found the Bid to be completely in compliance with the requirements of the RFP, and after having made the motion on a resolution to adopt the Bid, casted his vote of approval. As President of CEHMM, Chairman Heaton may have known that CEHMM's proposal to develop Holtec's environmental report for the NRC was being considered and that its success would be contingent on the success of the Bid.

The record indicates Chairman Heaton did not make any effort to disclose to the public any real or potential conflict of interest prior to his approval of the Bid that day, particularly with his business relationship to CEHMM, and may not have acted with appropriate conduct pursuant to section 3(C) of the GCA.

4. PRIVATE USE OF PUBLIC RESOURCES

Section 3 of the GCA is titled ‘Ethical principles of public service; certain official acts prohibited; penalty’. The relevant statute in subsection A reads:

“A... public officer or employee shall treat the... public officer’s or employee’s government position as a public trust. The... public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.”

Chairman Heaton may have used the powers and resources of public office to pursue private interests. Mr. Hall provided legal services to ELEA on multiple occasions that included discussion by telephone and email with Chairman Heaton who may have requested legal services to be rendered which had the effect of assisting Holtec with meeting the qualifications and specifications of the RFP, intentional or not. On multiple occasions, Mr. Hall charges taxpayers for emails, telephone calls, and documents he provided to Holtec prior to the Board’s procurement of any public contract. Finding that CEHMM had created an analysis of project site mineral rights at around the same time period that Mr. Hall was analyzing mineral ownership for ELEA, and by relation, Holtec, and the outcome that CEHMM eventually partnered with Holtec to develop an environmental report, it is reasonable that Chairman Heaton may have used the powers and resources available to him as a chairman of ELEA, such as requesting Mr. Hall’s legal counsel and services, to pursue his private interests as president of CEHMM.

C. OPERATING IMPROPRIETIES

ELEA is governed by the Operating Agreement which may have been violated multiple times during the procurement of public contracts with Holtec. A few examples follow:

1. OPEN MEETINGS ACT

ELEA's policies for meetings of the Board are outlined in Section 6.4.1 of the Operating Agreement and those meetings are specified to be held "all in compliance with Section 10-15-1 of the Open Meetings Act" ("OMA").

ELEA shall keep written minutes of all its meetings "all in compliance with Section 10-15-1" of OMA. Section 1(G) of OMA requires the minutes to include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted.

The written minutes for the public meeting held by the Board on December 22, 2015, do not include the names of members absent, specifically Mr. Cope, Mayor Cobb, and Councilor Shirley, a violation of Section 10-15-1 NMSA 1978; and, as a result, actions of the Board during the meeting may be declared invalid as they were not taken or made at a meeting held in accordance with the requirements of Section 10-15-1 NMSA 1978.

2. QUORUMS

A quorum of the Board was held in Albuquerque during the Conference, but the Operating Agreement appears to restrictively authorize meetings of the Board to be held only at places within Lea or Eddy County. While not expressly prohibited, use of the term 'shall' in section 6.4.1 of the Operating Agreement seems to build this case: "Meetings of the Governing Board shall be held at a place within Lea County or Eddy County as determined by the Chairperson."

3. CONTRACTS

ELEA's policies for contract approval are outlined in section 6.6.1 of the Operating Agreement: "The Governing Board shall approve all contracts, and all contracts shall be signed by both the Chairperson or the Vice-Chairperson, and the Secretary or the Treasurer."

Because the Board shall approve all contracts, all contracts of ELEA shall be approved during an open session of public meetings compliant with OMA. The 2015 MoA and the PPA may have been approved outside of public meetings as the record does not indicate otherwise; even after Chairman Heaton acknowledged Mr. Rempe's suggestions for improvements in 2014.

The Final Contracts are signed solely by Chairman Heaton, without a signature of the Secretary or Treasurer, and as such are in violation of section 6.6.1 of the Operating Agreement.

D. COLLUSION

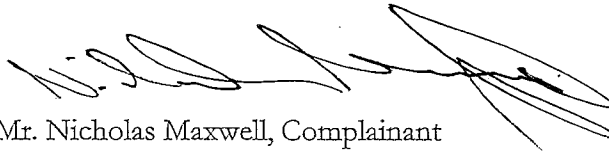
This collective set of circumstances indicates a pattern of conduct whereby public officials of ELEA, chiefly by Chairman Heaton and Mr. Newman with help from counsel, interjected themselves or committed official acts on multiple occasions, using public positions of power and authority, to manipulate a public bid for Holtec, colluding with their partner, contrary to Ms. Russell's Affidavit, with knowledge, for the purposes of securing the Option Agreement with Section 8 and to save ELEA from considering any other competitive bids that would be submitted without prior consideration of the Board's Option Agreement. Considering Chairman Heaton's several interactions with Mr. Newman, Mr. Hall, and Ms. Russell prior to the Board's issuance of the RFP, the outcome, and the resulting services CEHMM now provides to Holtec, regional environmental reporting, combined with Chairman Heaton's persistent leadership at CEHMM, it is both reasonable and probable that he colluded with executives of Holtec, and that there was some incentive for him to engineer these circumstances in Holtec's favor.

IV. CONCLUSION

Complainant believes, based on the facts and arguments, the necessary probable cause is established to authorize a special investigation into ELEA for collusion and public corruption related to the RFP, the Bid, and the resulting procurement and validity of any public contract between ELEA and Holtec.

WHEREFORE, Complainant prays the Office to conduct such special investigation and to report its findings; and, should the Office discover any evidence of criminal activity: to refer its findings to the proper law enforcement agencies for action, to petition the Court for judicial dissolution of ELEA, and such other and further remedy as the Office shall deem proper.

FURTHER COMPLAINANT SAYETH NOT.



By: Mr. Nicholas Maxwell, Complainant

V. APPENDIX A: WITNESS LIST

1. Mr. Nicholas Maxwell,
Complainant
PO Box 1064
Hobbs, NM 88241
(575) 441-3560
2. Mr. Michael Gallagher II,
County Manager,
Lea County
100 N. Main Ave, Suite 4
Lovington, NM 88260
(575) 396-8601
3. Mr. Chip Low,
Finance Director,
Lea County
100 N. Main Ave, Suite 11
Lovington, NM 88260
(575) 396-8653
4. Mr. John Heaton,
Chairman,
Eddy-Lea Energy Alliance
117 E. Broadway St
Hobbs, NM 88240
(575) 393-2550
5. Mr. Alan Hall,
Counsel,
Rodey Law Firm
201 Third St, Suite 2200
Albuquerque, NM 87102
(505) 768-7203
6. Ms. Kathy McLaughlin,
Procurement Officer,
Lea County
100 N. Main Ave, Suite 11
Lovington, NM 88260
(575) 396-8656
7. Mr. Monty Newman,
Former Chairman,
Eddy-Lea Energy Alliance
117 E. Broadway St
Hobbs, NM 88240
(575) 393-2550
8. Mr. Sam Cobb,
Mayor,
City of Hobbs
200 E. Broadway St
Hobbs, NM 88240
(575) 391-7890
9. Mr. Steve Vierck,
Director of Strategic Projects,
NM State Land Office
310 Old Santa Fe Tr
Santa Fe, NM 87504
(505) 476-4652
10. Mr. John Waters,
Executive Director,
Carlsbad Industrial Action
400-2 Cascades Ave, Suite 201
Carlsbad, NM 88220
(575) 887-6562
11. Mr. John "J.J." Murphy,
Assistant City Manager,
City of Palmdale
38300 Sierra Highway
Palmdale, CA 93550
(661) 267-5100
12. Mr. Curtis Wynne,
Reporter,
Hobbs News-Sun
201 N. Thorp St
Hobbs, NM 88240
(575) 391-5415

13. The Honorable Michael Stone,
District Judge,
Fifth Judicial District Court
100 W. Central Ave #D
Lovington, NM 88260
(575) 396-6677
14. Mr. Mike Barnes,
Former ELEA “Staff”,
Mike Barnes Group
P.O. Box 1729
Blanco, TX 78606-1729
(830) 833-5300
15. Mrs. Susan Crockett,
Commissioner,
Eddy County, District 5
101 W. Green St
Carlsbad, NM 88220
(575) 361-4695
16. Mr. Jack Volpato,
Treasurer,
Eddy-Lea Energy Alliance
117 E. Broadway St
Hobbs, NM 88240
(575) 393-2550
17. Mr. Gregg Fulfer,
Senator,
New Mexico Legislature
490 Old Santa Fe Tr #415A
Santa Fe, NM 87501
(575) 631-9699
18. Mr. Jason Shirley,
Councilor,
City of Carlsbad
101 N. Halagueno
Carlsbad, NM 88221
(575) 887-1191
19. Mr. Johnny Cope,
Former Chairman,
Eddy-Lea Energy Alliance
117 E. Broadway St
Hobbs, NM 88240
(575) 393-2550
20. Senator Carroll Leavell,
Registered Agent,
Eddy-Lea Energy Alliance
117 E. Broadway St
Hobbs, NM 88240
(575) 393-2550
21. Ms. Anna Carrasco,
Former ELEA “Staff”,
Carlsbad Industrial Action
400-2 Cascades Ave, Suite 201
Carlsbad, NM 88220
(575) 887-6562
22. Mr. Tai Etcheverry
Former Senior Accountant,
Lea County
100 N. Main Ave, Suite 11
Lovington, NM 88260
(575) 396-8653
23. Mr. Charlie Benton,
Former Reporter,
Hobbs News-Sun
201 N. Thorp St
Hobbs, NM 88240
(575) 391-5415
24. Ms. Melinda Allen,
Former ELEA “Staff”,
EDC of Lea County
200 E. Broadway St, Ste A201
Hobbs, NM 88240
(575) 397-2039
25. Mr. James Waltersheid,
Former Commissioner
Eddy County, District 1
101 W. Green St
Carlsbad, NM 88220
(575) 361-4695
26. Mrs. Gay Kernan
Senator,
New Mexico Legislature
490 Old Santa Fe Tr #415E
Santa Fe, NM 87501
(505) 986-4274

27. Mr. John Caldwell,
County Attorney,
Lea County
100 N. Main Ave, Suite 4
Lovington, NM 88260
(575) 396-8601
28. Mr. Dale Dunlap,
Former Commissioner,
Lea County, District 1
100 N. Main Ave, Suite 4
Lovington, NM 88260
(575) 396-8601
29. Mr. Ron Black,
Former Commissioner,
Lea County, District 3
100 N. Main Ave, Suite 4
Lovington, NM 88260
(575) 396-8601
30. Mr. James Britton,
Former Commissioner,
Lea County, District 4
100 N. Main Ave, Suite 4
Lovington, NM 88260
(575) 396-8601
31. Mrs. Rebecca Long,
Madam Chair,
Lea County, District 2
100 N. Main Ave, Suite 4
Lovington, NM 88260
(575) 396-8601
32. Mr. Cas Tabor,
Counsel, Eddy County
Tabor Byers Law Firm
112 N. Canyon St
Carlsbad, NM 88220
(575) 885-4171
33. Mr. Dale Janway,
Mayor
City of Carlsbad
101 N. Halagueno
Carlsbad, NM 88221
(575) 887-1191
34. Mr. Douglas Lynn,
Former Executive Director,
CEHMM
505 N. Main St,
Carlsbad, NM 88220
(575) 885-3700
35. Mr. Robert Forrest,
Treasurer,
CEHMM
505 N. Main St,
Carlsbad, NM 88220
(575) 885-3700
36. Mr. Mark Adams,
Counsel,
Rodey Law Firm
119 E. Marcy Street, Suite 200
Santa Fe, NM 87501
(505) 954-3942
37. Mr. David Buchholtz,
Counsel,
Rodey Law Firm
201 Third St, Suite 2200
Albuquerque, NM 87102
(505) 768-7203
38. Ms. Kimberly Wygant,
Counsel,
Rodey Law Firm
201 Third St, Suite 2200
Albuquerque, NM 87102
(505) 768-7203

39. Dr. Krishna P. Singh,
President,
Holtec International
1001 N US Highway 1
Jupiter, FL 33477
(561) 745-7772
40. Mr. Pierre Oneid,
Senior Vice President,
Holtec International
1001 N US Highway 1
Jupiter, FL 33477
(561) 745-7772
41. Ms. Joy Russell,
Senior Vice President,
Holtec International
One Holtec Drive
Marlton, NJ 08053
(856) 797-0900
42. Dr. Stefan Anton,
Vice President,
Holtec International
One Holtec Drive
Marlton, NJ 08053
(856) 797-0900
43. Mr. Andrew Ryan,
Esquire, General Counsel,
Holtec International
One Holtec Drive
Marlton, NJ 08053
(856) 797-0900
44. Ms. Bernadette Granger,
Guest from the Congressman
Steve Pearce's Office
45. Mr. N. Rempe,
Member of the public
46. Mr. T. Jones,
Member of the public
47. Ms. A. Sanchez,
Member of the public
48. Mr. R. Balter,
Member of the public

VI. APPENDIX B: DEFINITIONS

The following terms, sorted alphabetically, are referenced within this complaint:

<i>The term:</i>	Is further defined as:	<i>The term:</i>	Is further defined as:
<i>2015 MoA</i>	Memorandum of Agreement between ELEA and Holtec cir. 2015.	<i>Dr. Anton</i>	Dr. Stefan Anton.
<i>Affidavit</i>	Non-Collusion Affidavit included in the Bid.	<i>Dr. Singh</i>	Dr. Krishna P. Singh, president and chief executive officer of Holtec.
<i>Announcement</i>	Holtec company press release published on April 30, 2019.	<i>EDCLC</i>	Economic Development Corporation of Lea County.
<i>Bid</i>	Single proposal submitted to the Board from Holtec in response to the RFP.	<i>ELEA</i>	Eddy-Lea Energy Alliance Limited Liability Company.
<i>Board</i>	Governing board of ELEA.	<i>Final Contracts</i>	Bifurcated Option Agreement between ELEA and Holtec cir. 2017.
<i>CEHMM</i>	Center of Excellence for Hazardous Materials Management.	<i>GCA</i>	Governmental Conduct Act, NMSA 1978, Chapter 10, Article 16.
<i>Chairman Heaton</i>	Mr. John Heaton.	<i>Holtec</i>	Holtec International.
<i>Complainant</i>	Mr. Nicholas Maxwell.	<i>IPRA</i>	Inspection of Public Records Act, NMSA 1978, Chapter 14, Article 2.
<i>Conference</i>	Joint news conference between ELEA and Holtec held in Albuquerque, NM on April 29, 2015.	<i>Invoice</i>	Invoice dated December 31, 2015 from the Rodey Law Firm to ELEA for legal services.
<i>Councilor Shirley</i>	Mr. Jason Shirley, honorable councilor of the City of Carlsbad.	<i>LEDA</i>	Local Economic Development Act, NMSA 1978, Chapter 5, Article 10.

<i>Mayor Cobb</i>	Mr. Sam Cobb, honorable mayor of the City of Hobbs.	<i>Mr. Newman</i>	Mr. Monty Newman.
<i>Members</i>	LLC membership of ELEA: Cities of Hobbs and Carlsbad, and Lea and Eddy Counties	<i>Mr. Rempe</i>	Mr. N. Rempe.
<i>Mr. Adams</i>	Mr. Mark Adams, Esq.	<i>Ms. Russell</i>	Ms. Joy Russell.
<i>Ms. Allen</i>	Ms. Melinda Allen.	<i>Mr. Ryan</i>	Mr. Andrew Ryan, Esq.
<i>Mr. Caldwell</i>	Mr. John Caldwell, Esq.	<i>Mr. Stone</i>	Mr. Michael Stone, honorable district judge of Lea County.
<i>Ms. Carrasco</i>	Ms. Anna Carrasco.	<i>Mr. Waters</i>	Mr. John Waters.
<i>Mr. Cope</i>	Mr. Johnny Cope.	<i>Ms. Wygant</i>	Ms. Kimberly Wygant, Esq.
<i>Mr. Forrest</i>	Mr. Robert Forrest.	<i>NRC</i>	Nuclear Regulatory Commission of the United States of America.
<i>Mr. Fulfer</i>	Mr. Gregg Fulfer.	<i>Office</i>	New Mexico Office of the State Auditor.
<i>Mr. Hall</i>	Mr. Alan Hall, Esq.	<i>OMA</i>	Open Meetings Act, NMSA 1978, Chapter 10, Article 15.
<i>Mr. Low</i>	Mr. Chip Low.	<i>Operating Agreement</i>	Amended and Restated Operating Agreement / Joint Powers Agreement for ELEA.
<i>Mr. Murphy</i>	Mr. John 'J.J.' Murphy.	<i>Option Agreement</i>	Land Purchase Option Agreement.

PPA.....Project Participation Agreement.

Senator Kernan.....Mrs. Gay Kernan, honorable senator of New Mexico.

RFP.....Request for Proposals ELEA #01 – (15-16).

Senator Leavell.....Mr. Carroll Leavell, honorable senator of New Mexico.

Section 8.....Revenue Sharing Section.

SLO.....New Mexico State Land Office.

Secretary Crockett.....Mrs. Susan Crockett, honorable commissioner of Eddy County.

Treasurer Volpato.....Mr. Jack Volpato.

VI. APPENDIX C: ATTACHMENT REFERENCE

The following attachments are referenced in order of appearance in the complaint:

[Attachment I.1]

Office's opinion regarding ELEA dated September 14, 2012.

3 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-I-1.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716211637/http://wethefourth.org/osa/attachment-I-1.pdf>

[Attachment I.2]

Amended and Restated Operating Agreement / Joint Powers Agreement for ELEA.

21 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-I-2.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716210258/http://wethefourth.org/osa/attachment-I-2.pdf>

[Attachment I.3]

Articles of Organization for ELEA.

9 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-I-3.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716211518/http://wethefourth.org/osa/attachment-I-3.pdf>

[Attachment I.4]

RFP ELEA #01 – (15-16), 'Request for Proposals' public procurement specifications issued for "Purchase of Site for Development and Operation of Interim Nuclear Waste Storage Facility".

16 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-I-4.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716211831/http://wethefourth.org/osa/attachment-I-4.pdf>

[Attachment I.5]

The record of a public meeting held by ELEA on December 22, 2015.

3 pages

SOURCE: (IPRA) <http://wethefourth.org/osa/attachment-I-5.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716212204/http://wethefourth.org/osa/attachment-I-5.pdf>

[Attachment I.6]

News publications in Lea County with legal notice of RFP on December 26, 2015.

A typo in the Lovington Leader reads an incorrect date of December 19, 2015 at the top.

3 pages

SOURCE: (IPRA) <http://wethefourth.org/osa/attachment-I-6.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716214204/http://wethefourth.org/osa/attachment-I-6.pdf>

[Attachment I.7]

Holtec's proposal to RFP ELEA #01 – (15-16).

98 pages (28 pages in the redacted public release)

SOURCE: (IPRA) (REDACTED) <http://wethefourth.org/osa/attachment-I-7-redacted.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716214738/http://wethefourth.org/osa/attachment-I-7-redacted.pdf>

[Attachment I.8]

The record of a public meeting held by ELEA on January 15, 2016.

A typo in the minutes reads an incorrect year of 2015 at the top.

3 pages

SOURCE: (IPRA) <http://wethefourth.org/osa/attachment-I-8.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716215029/http://wethefourth.org/osa/attachment-I-8.pdf>

[Attachment I.9]

Invoice to ELEA by the Rodey Law Firm for legal services dated December 31, 2015

6 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-I-9.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716215701/http://wethefourth.org/osa/attachment-I-9.pdf>

[Attachment II.1]

The record of public meetings held by the Board in 2014.

11 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-1.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716220628/http://wethefourth.org/osa/attachment-II-1.pdf>

[Attachment II.2]

Biography from EnergyPlex Conference 2019 for Mr. Michael Gallagher II.

2 pages

SOURCE: (*HANDOUT*) <http://wethefourth.org/osa/attachment-II-2.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716221037/http://wethefourth.org/osa/attachment-II-2.pdf>

[Attachment II.3]

The record of a public meeting held by the Board on January 14, 2015.

3 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-3.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716221854/http://wethefourth.org/osa/attachment-II-3.pdf>

[Attachment II.4]

Biography from Holtec's website for Chairman Heaton.

1 page

SOURCE: (*WEB*) <https://historecisf.com/leadership/john-a-heaton-chairman/>

ARCHIVE:

<https://web.archive.org/web/20190706151654/https://historecisf.com/leadership/john-a-heaton-chairman/>

[Attachment II.5]

Biography from Holtec's website for Mr. Fulfer.

1 page

SOURCE: (*WEB*) <https://historecisf.com/leadership/commissioner-gregg-fulfer-vice-chairman/>

ARCHIVE:

<https://web.archive.org/web/20190706151337/https://historecisf.com/leadership/commissioner-gregg-fulfer-vice-chairman/>

[Attachment II.6]

Biography from Holtec's website for Mayor Cobb.

1 page

SOURCE: (*WEB*) <https://historecisf.com/leadership/mayor-sam-cobb-secretary/>

ARCHIVE:

<https://web.archive.org/web/20190706151547/https://historecisf.com/leadership/mayor-sam-cobb-secretary/>

[Attachment II.7]

The record of a public meeting held by the Board on March 4, 2015.

2 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-7.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716223756/http://wethefourth.org/osa/attachment-II-7.pdf>

[Attachment II.8]

Lea County Finance Department webpage includes Mr. Low as director.

2 pages

SOURCE: (*WEB*) <https://www.leacounty.net/p/departments/administration/finance>

ARCHIVE:

<https://web.archive.org/web/20160103204322/http://www.leacounty.net:80/p/departments/administration/finance>

[Attachment II.9]

Biography from Holtec's website for Treasurer Volpato.

1 page

SOURCE: (*WEB*) <https://historecisf.com/leadership/commissioner-jack-volpato-treasurer/>

ARCHIVE:

<https://web.archive.org/web/20190706151524/https://historecisf.com/leadership/commissioner-jack-volpato-treasurer/>

[Attachment II.10]

Biography from Holtec's website for Secretary Crockett

1 page

SOURCE: (*WEB*) <https://historecisf.com/leadership/commissioner-susan-crockett/>

ARCHIVE:

<https://web.archive.org/web/20190706151432/https://historecisf.com/leadership/commissioner-susan-crockett/>

[Attachment II.11]

Complainant's IPRA request and responses of ELEA record custodian.

4 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-11.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716224625/http://wethefourth.org/osa/attachment-II-11.pdf>

[Attachment II.12]

“New Mexico leaders push for high-level nuclear waste,” Santa Fe New Mexican.

7 pages

SOURCE: (*WEB*) http://www.santafenewmexican.com/news/local_news/new-mexico-leaders-push-for-high-level-nuclear-waste/article_c1aba5cb-6b7d-551b-aae9-443e81556021.html

ARCHIVE:

https://web.archive.org/web/20190708030008/https://www.santafenewmexican.com/news/local_news/new-mexico-leaders-push-for-high-level-nuclear-waste/article_c1aba5cb-6b7d-551b-aae9-443e81556021.html

[Attachment II.13]

AREVA Company press release published October 5, 2012.

1 page

SOURCE: (*WEB*) <http://us.aveva.com/EN/home-2016/aveva-eddy-lea-unf-storage-facility.html>

ARCHIVE: <https://web.archive.org/web/20190708031415/http://us.aveva.com/EN/home-2016/aveva-eddy-lea-unf-storage-facility.html>

[Attachment II.14]

ELEA’s letter to NRC, “Notice of Intent to Submit a License Application for Consolidated Used Nuclear Fuel Storage Facility”.

1 page

SOURCE: (*WEB*)

<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML13067A278>

ARCHIVE:

<http://web.archive.org/web/20190716225656/https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML13067A278>

[Attachment II.15]

The record of public meetings held by the Board on February 20, 2013 and March 20, 2013.

10 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-15.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716230610/http://wethefourth.org/osa/attachment-II-15.pdf>

[Attachment II.16]

“Nuclear power plant waste headed to NM?” Albuquerque Journal.

2 pages

SOURCE: *(WEB)* <https://www.abqjournal.com/577094/nuclear-power-plant-waste-headed-to-nm.html>

ARCHIVE: <http://archive.is/Xg5OU>

[Attachment II.17]

“Holtec Partners with ELEA, LLC in New Mexico to Build Consolidated Interim Storage Facility,” Holtec Highlights.

9 pages

SOURCE: *(WEB)* https://holtecinternational.com/wp-content/uploads/2015/04/hh-30_041.pdf

ARCHIVE: https://web.archive.org/web/20190708033351/https://holtecinternational.com/wp-content/uploads/2015/04/hh-30_041.pdf

[Attachment II.18]

Biography from Holtec’s website for Councilor Shirley.

1 page

SOURCE: *(WEB)* <https://historecisf.com/leadership/councilor-jason-shirley/>

ARCHIVE:

<https://web.archive.org/web/20190706151618/https://historecisf.com/leadership/councilor-jason-shirley/>

[Attachment II.19]

“Plans announced for New Mexico used fuel store,” World Nuclear News.

1 page

SOURCE: *(WEB)* <https://www.world-nuclear-news.org/WR-Plans-announced-for-New-Mexico-used-fuel-store-3004154.html>

ARCHIVE: <https://web.archive.org/web/20190708034446/https://www.world-nuclear-news.org/WR-Plans-announced-for-New-Mexico-used-fuel-store-3004154.html>

[Attachment II.20]

Biography from Rodey Law Firm website for Mr. Hall, Esq.

3 pages

SOURCE: (*WEB*) <https://www.rodey.com/attorney-profile.aspx?rlaid=6441456e-631f-40af-89ba-7924307abdda>

ARCHIVE:

https://web.archive.org/web/20160302124458/http://www.rodey.com/pg_attorney.html?a=ahall

[Attachment II.21]

The record of a public meeting held by the Lea County Commission on December 21, 2015.

2 pages

SOURCE: (*WEB*)

https://d38trduahtodj3.cloudfront.net/files.ashx?t=fg&rid=LeaCounty&f=20151221_LCBCC_Special_Meeting_to_Adopt_Ordinance_No._87.pdf

ARCHIVE:

https://web.archive.org/web/20190708045030/https://d38trduahtodj3.cloudfront.net/files.ashx?t=fg&rid=LeaCounty&f=20151221_LCBCC_Special_Meeting_to_Adopt_Ordinance_No._87.pdf

[Attachment II.22]

The record of a public meeting held by the Board on May 11, 2015.

3 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-22.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716232452/http://wethefourth.org/osa/attachment-II-22.pdf>

[Attachment II.23]

Biography from Holtec's website for Ms. Russell.

2 pages

SOURCE: (*WEB*) <https://holtecinternational.com/company/leadership/corporate-leadership/ms-joy-russell/>

ARCHIVE:

<https://web.archive.org/web/20190708035807/https://holtecinternational.com/company/leadership/corporate-leadership/ms-joy-russell/>

[Attachment II.24]

Holtec's presentation as presented by Ms. Russell on June 10, 2015.

20 pages

SOURCE: (*WEB*)

http://www.ncsl.org/Portals/1/Documents/energy/Joy_Russell_Holtec_pp_NLWG_presentation.pdf

ARCHIVE:

https://web.archive.org/web/20190708041755/http://www.ncsl.org/Portals/1/Documents/energy/Joy_Russell_Holtec_pp_NLWG_presentation.pdf

[Attachment II.25]

Agenda for Nuclear Legislative Working Group meeting in Oak Ridge, Tennessee.

3 pages

SOURCE: (*WEB*) <http://www.ncsl.org/research/environment-and-natural-resources/nlwg-june-9-10-2015-oak-ridge-tenn.aspx>

ARCHIVE:

<https://web.archive.org/web/20170613031215/http://www.ncsl.org/research/environment-and-natural-resources/nlwg-june-9-10-2015-oak-ridge-tenn.aspx>

[Attachment II.26]

The record of a public meeting held by the Board on June 24, 2015.

3 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-26.pdf>

ARCHIVE:

<https://web.archive.org/web/20190716233546/http://wethefourth.org/osa/attachment-II-26.pdf>

[Attachment II.27]

"Monty Newman talks health care, immigration, oil and gas," Carlsbad Current-Argus.

3 pages

SOURCE: (*WEB*) <https://www.currentargus.com/story/news/local/2018/04/04/monty-newman-talks-health-care-immigration-oil-and-gas/482827002/>

ARCHIVE:

<http://web.archive.org/web/20190708051836/https://www.currentargus.com/story/news/local/2018/04/04/monty-newman-talks-health-care-immigration-oil-and-gas/482827002/>

[Attachment II.28]

Holtec's letter to NRC, "Notice of Intent to License the ELEA Interim Storage Facility and Request to Establish a New Part 72 Docket".

5 pages

SOURCE: (*WEB*)

<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML15215A592>

ARCHIVE:

<https://web.archive.org/web/20190708043516/https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML15215A592>

[Attachment II.29]

Biography from City of Carlsbad's website for Mayor Janway.

2 pages

SOURCE: (*WEB*) <https://www.cityofcarlsbadnm.com/mayor-of-carlsbad/>

ARCHIVE:

<https://web.archive.org/web/20190716234045/https://www.cityofcarlsbadnm.com/mayor-of-carlsbad/>

[Attachment II.30]

Biography from Holtec's website for Mr. Ryan, Esq.

2 pages

SOURCE: (*WEB*) <https://holtecinternational.com/company/leadership/corporate-leadership/mr-andrew-r-ryan-esq/>

ARCHIVE:

<https://web.archive.org/web/20190716234453/https://holtecinternational.com/company/leadership/corporate-leadership/mr-andrew-r-ryan-esq/>

[Attachment II.31]

Biography from Rodey Law Firm website for Mr. Adams, Esq.

2 pages

SOURCE: (*WEB*) <https://www.rodey.com/attorney-profile.aspx?rlaid=9a2699b2-d961-4a93-af09-8f15bd6b5041>

ARCHIVE:

https://web.archive.org/web/20160302125609/http://www.rodey.com/pg_attorney.html?a=mada ms

[Attachment II.32]

Biography from Rodey Law Firm website for Mr. David Buchholtz, Esq.

3 pages

SOURCE: (*WEB*) <https://www.rodey.com/attorney-profile.aspx?rlaid=68343ee6-8533-4385-a17c-94cb119463e3>

ARCHIVE:

https://web.archive.org/web/20160302124756/http://www.rodey.com/pg_attorney.html?a=dbuc hholtz

[Attachment II.33]

New Mexico State filings of CEHMM.

40 pages

SOURCE: (*Public Inspection*) <http://wethefourth.org/osa/attachment-II-33.pdf>

ARCHIVE:

<https://web.archive.org/web/20190717041323/http://wethefourth.org/osa/attachment-II-33.pdf>

[Attachments II.34.1 – II.34.14]

Tax forms of CEHMM

351 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-34.pdf>

ARCHIVE:

<https://web.archive.org/web/20190717033953/http://wethefourth.org/osa/attachment-II-34.pdf>

[Attachment II.35]

Mineral conflict analysis of Eddy Lea Alliance Site dated September 16, 2015.

6 pages

SOURCE: (*WEB*)

<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML18257A336>

ARCHIVE:

<https://web.archive.org/web/20190717001715/https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML18257A336>

[Attachment II.36]

The record of an invalid public meeting held by the Board on December 7, 2015.

1 page

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-36.pdf>

ARCHIVE:

<https://web.archive.org/web/20190717002158/http://wethefourth.org/osa/attachment-II-36.pdf>

[Attachment II.37]

The summary of pre-application meeting at NRC Headquarters held on December 9, 2015.

5 pages

SOURCE: (*WEB*)

<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML16033A152>

ARCHIVE:

<https://web.archive.org/web/20190708045912/https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML16033A152>

[Attachment II.38]

Biography from Holtec's website for Dr. Anton.

1 page

SOURCE: (*WEB*) <https://holtecinternational.com/company/leadership/corporate-leadership/dr-stefan-anton/>

ARCHIVE:

<https://web.archive.org/web/20190708050356/https://holtecinternational.com/company/leadership/corporate-leadership/dr-stefan-anton/>

[Attachment II.39]

Holtec's presentation as presented by Dr. Anton on December 9, 2015.

26 pages

SOURCE: (WEB)

<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML16033A151>

ARCHIVE:

<https://web.archive.org/web/20190708050930/https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML16033A151>

[Attachment II.40]

Office's opinion regarding City of Hobbs dated January 30, 2017.

2 pages

SOURCE: (WEB) <http://wethefourth.org/osa/attachment-II-40.pdf>

ARCHIVE:

<https://web.archive.org/web/20190717003441/http://wethefourth.org/osa/attachment-II-40.pdf>

[Attachment II.41]

Homepage of the Mike Barnes Group.

1 page

SOURCE: (WEB) <https://www.mikebarnesgroup.com/>

ARCHIVE: <https://web.archive.org/web/20190717003519/https://www.mikebarnesgroup.com/>

[Attachment II.42]

"New Mexico Partnership CEO's moving on – but staying in state," Albuquerque Business First.

4 pages

SOURCE: (WEB) <https://www.bizjournals.com/albuquerque/blog/bizventures/2016/02/nm-partnership-ceo-steve-vierck-named-ceo-elcdc.html>

ARCHIVE:

<http://webcache.googleusercontent.com/search?q=cache:https://www.bizjournals.com/albuquerque/blog/bizventures/2016/02/nm-partnership-ceo-steve-vierck-named-ceo-elcdc.html>

[Attachment II.43]

Biography from Holtec's website for Dr. Singh.

3 pages

SOURCE: (*WEB*) <https://holtecinternational.com/company/leadership/corporate-leadership/kris-singh/>

ARCHIVE:

<https://web.archive.org/web/20190714031835/https://holtecinternational.com/company/leadership/corporate-leadership/kris-singh/>

[Attachment II.44]

Environmental Report submitted to NRC by Holtec.

557 pages

SOURCE: (*WEB*)

<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML18255A266>

ARCHIVE:

<http://web.archive.org/web/20190717004609/https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML18255A266>

[Attachment II.45]

"John Heaton honored with building," Carlsbad Current-Argus.

2 pages

SOURCE: (*WEB*) <https://www.currentargus.com/story/news/local/2016/03/25/john-heaton-honored-building/82240334/>

ARCHIVE:

<https://web.archive.org/web/20190717023918/https://www.currentargus.com/story/news/local/2016/03/25/john-heaton-honored-building/82240334/>

[Attachment II.46]

The record of a public meeting held by the Board on June 2, 2016.

3 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-46.pdf>

ARCHIVE:

<https://web.archive.org/web/20190717024305/http://wethefourth.org/osa/attachment-II-46.pdf>

[Attachment II.47]

Expenditure report of the Board including the Invoice.

1 page

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-47.pdf>

ARCHIVE:

<https://web.archive.org/web/20190717024509/http://wethefourth.org/osa/attachment-II-47.pdf>

[Attachment II.48]

Video of the public meeting held by the Board on June 2, 2016.

30 Minutes

SOURCE: (*FILMED*) <https://www.youtube.com/watch?v=tZogU7K0tOE>

ARCHIVE: <http://wethefourth.org/osa/attachment-II-48.mp4>

[Attachment II.49]

“The EDCLC Welcomes Steve Vierck as the new President & CEO,” EDC Visions.

11 pages

SOURCE: (*IPRA*) <http://www.edclc.org/wp-content/uploads/2018/08/EDC-Visions-Issue-002.pdf>

ARCHIVE: <https://web.archive.org/web/20190715082952/http://www.edclc.org/wp-content/uploads/2018/08/EDC-Visions-Issue-002.pdf>

[Attachment II.50]

The Final Contracts.

19 pages

SOURCE: (*IPRA*) <http://wethefourth.org/osa/attachment-II-50.pdf>

ARCHIVE:

<https://web.archive.org/web/20190717070424/http://wethefourth.org/osa/attachment-II-50.pdf>

END OF COMPLAINT