

DECLARATION, NOTICE AND DEMAND

SERVED IN-PERSON TO Mr. John Heaton, President,

EDDY LEA ENERGY ALLIANCE LLC

WHEREAS representative government is dependent upon an informed electorate, the public policy of New Mexico is declared to be that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them; and

WHEREAS no resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be valid unless taken or made at a meeting held in accordance with the requirements of NMSA 1978, Section 10-15-1 of the Open Meetings Act; and,

WHEREAS every resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be presumed to have been taken or made at a meeting held in accordance with the requirements of NMSA 1978, Section 10-15-1; but, for public meetings where this is shown not to be the case, no action taken by the public body shall be valid; and,

WHEREAS a public body that receives written notice of a claimed violation of the Open Meetings Act has fifteen days from the day it receives the notice to cure the violation if the public body decides the claim is valid.

COMES NOW the claimant, Nick Maxwell, one of the people of New Mexico, hereinafter referred to as “Nick”, who claims a violation of the Open Meetings Act hereby this written notice to *EDDY LEA ENERGY ALLIANCE LLC*, a public body in New Mexico, hereinafter referred to as “the Alliance”; to wit, Nick claims the notice of the regular meeting held by the board of directors of the Alliance on September 26, 2016 (hereinafter the “invalid meeting”) was not given in accordance with the requirements of NMSA 1978, Section 10-15-1, specifically Nick was not given a notice of the invalid meeting at least seven days in advance:

1. For many consecutive years, up to, including, and beyond the year of the claimed violation, which is 2016, the Alliance did not annually determine what notice for a public meeting was considered reasonable when applied to itself; however, it is reasonably noted that several years prior to the invalid meeting, the Alliance did determine for the purpose of regular meetings that notice requirements are met if the notice of the date, time, place, and general subject matter to be discussed is placed in newspapers of general circulation in both Lea County and Eddy County; and, the Alliance determined this same notice shall be given to the public at least seven days in advance. *See EXHIBIT-A.*

2. The notice for the invalid meeting was placed in THE LOVINGTON LEADER, a newspaper of general circulation in Lea County, once on September 20, 2016, only six days in advance of the invalid meeting and contrary to the Alliance's determination that notice to the public shall be given at least seven days in advance for regular meetings of its board of directors. See *EXHIBIT-B*.

3. Nick did not receive reasonable notice of the invalid meeting, resulting in injury, specifically Nick's loss of his substantive right to reasonable notice of public meetings; and, Nick herein argues that a valid meeting with the same legal notice would have been held on September 27, 2016. See *EXHIBIT-C*.

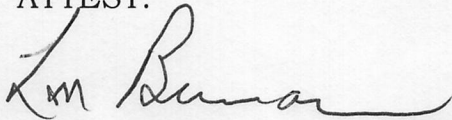
4. No resolution, rule, regulation, ordinance or action of the Alliance taken at the invalid meeting shall be valid because the Alliance did not hold the meeting in accordance with the requirements of the Open Meetings Act, specifically NMSA 1978, Section 10-15-1(D). See *EXHIBIT-D*.

WHEREFORE Nick demands that the Alliance remedy his claimed violation of the Open Meetings Act, which resulted in injury to Nick, by declaring all of the actions taken at its regular meeting of its board of directors on September 26, 2016, including the following actions as recorded in the minutes, to be invalid within fifteen calendar days of service of this notice and demand, or show cause why Nick's demand should not be enforced in a Court of record in New Mexico:

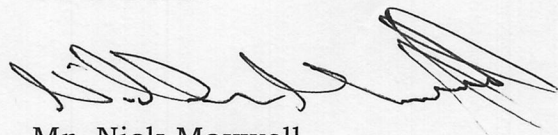
1. Approval of the agenda
2. Approval of the minutes from July 18, 2016
3. A "Motion to approve payment of bills"
4. "A motion not to consider the Insurance "Terrorism" provision purchase"
5. Approval of "Resolution Memorializing contract changes" [w/Holtec Intl.]
6. Actions closing/reopening the meeting for/from executive session
7. "A motion to reject" a "Request by Delaware Energy, LLC of Midland to put disposal wells on Sections 13 and 18"
8. "A motion to approve Modified Lease Contract LOI from Crown Castle"

BE IT WITNESSED THIS MAY 3RD, 2018 THE ALLIANCE HAS BEEN SERVED:

ATTEST:



CLAIMANT:



Mr. Nick Maxwell

P.O. Box 1064

Hobbs, NM 88241

Enclosed Exhibits:

EXHIBIT-A – 2012 Open Meetings Act Resolution for the Alliance

EXHIBIT-B – Insufficient legal notice for the invalid meeting of the Alliance

EXHIBIT-C – Nick's argument and an example of a proper legal notice

EXHIBIT-D – Agenda and minutes for the invalid meeting of the Alliance

EXHIBIT-A

EDDY-LEA ENERGY ALLIANCE, LLC

RESOLUTION 12 MARCH – 001

WHEREAS, Open Meetings Act, NMSA 1978, Section 10-15-1(B) (2009), states that, except as may be otherwise provided in the Constitution or in the provisions of the Open Meeting Act, all meetings of a quorum of members of any board, council, commission or other policy making body of any state or local public agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

WHEREAS, Open Meetings Act, Section 10-15-1(C), requires the Eddy-Lea Energy Alliance, LLC to determine annually what constitutes reasonable notice of its public meetings.

NOW, THEREFORE, BE IT RESOLVED that:

1. All meetings shall be held as indicated on the meeting notice as to date, time and place.
2. There are no set annual or regular meetings. Notice of regular meetings shall be given at least seven days in advance.
3. Special meetings may be called by the Chairperson or upon written or emailed request of any Governing Board Director within 24 hours' notice.
4. Emergency meetings will be called only under circumstances which demand immediate action. Emergency meetings may be called by the Chairperson or a majority of the Directors upon 12 hours' notice, unless a threat of personal injury, property damage or substantial financial loss requires less notice.
5. For the purpose of regular meetings described in paragraph 2 of this resolution, notice requirements are met if the notice of the date, time, place, and general subject matter to be discussed is placed in newspapers of general circulation in both Counties who are members of the Alliance. In addition, written or emailed notice shall be given to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation which have made a written or emailed request for notice of public meetings. Notice may also be posted on the official website of any member.
6. For the purpose of special meetings and emergency meetings described in paragraphs 3 and 4 of this resolution, notice requirements shall be met by posting notices in the office of the Manager/Mayor of all the Members, who shall also provide telephonic or emailed notice to those broadcast stations licensed by the Federal Communications Commission

EXHIBIT-A

and newspapers of general circulation which have made a written or emailed request for notice of public meetings.

7. The Alliance Governing Board may close a meeting to the public only if the subject matter of such discussion or action is exempted from the open meeting requirement under the Open Meetings Act, Section 10-15-1(H).
 - a. If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Directors taken during the open meeting. Authority for the closure and the subject(s) to be discussed shall be stated in the motion for closure and the vote on closure of each individual Director shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in a closed meeting; and
 - b. Except as provided in Open Meetings Act, Section 10-15-1(H), any action taken as a result of discussions in a closed meeting shall be made by vote of the Governing Board in an open public meeting.
8. A final agenda will be available 24 hours in advance of regular meetings from the office of the County Manager/City Manager/Mayor of all members. In addition, the agenda shall be posted on the ELEA website (www.eddyleaenergyalliance.com) and sent to all news media agencies and organizations in Lea and Eddy counties 24 hours prior to such meeting. The agenda will indicate the date, time, place and specific items to be discussed during the meeting, except for emergency matters. The Governing Board shall take action only on items appearing on the agenda.
9. All persons, agencies or organizations who desire to discuss public business or matters with the Governing Board, must make their request to the Chairman prior to the commencement of the meeting. The request may be oral, emailed or written and must include the name of the person making the request and the subject on which they wish to address the Governing Board. The presentations by such persons addressing the Governing Board may be limited as determined by the Chairman; provided, however, each person will have at least three minutes to speak. All persons, agencies or organizations that require an extended time to discuss public business or matters with the Governing Board, must make their request, in writing, at least seven days prior to the meeting. Such persons addressing The Governing Board will be allowed an appropriate time to present, at the discretion of the Chairman.
10. Informal work sessions may be called by the Governing Board with notice to the news media. Informal work sessions shall always be open to the public. The Governing Board shall not formulate public policy or take action by vote at informal work sessions. In addition, the Governing Board herewith serves notice to the public that, during any meeting the Governing Board may adjourn into an informal work session for the purpose of lunch or dinner. During the meal, the informal work session may be conducted, provided that no public policy shall be formulated nor conducted by vote. The media and public are invited to attend these sessions at their own expense.

EXHIBIT-A

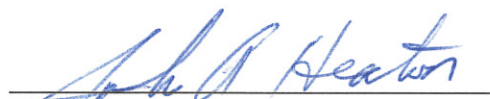
11. Telephonic or Video Participation

- a. A member of the ELEA Board may participate in a meeting by telephone or video communications if:
 - i. It is "difficult or impossible" for that member to attend the meeting in person; and
 - ii. Each member participating telephonically or by video can be identified when speaking, all participants are able to hear each other at the same time, and members of the public attending the meeting are able to hear any member of the board who speaks during the meeting.

12. The Governing Board may, by resolution, adopt rules and regulations regarding conduct of the meetings of the Eddy-Lea Energy Alliance, LLC.

13. The terms used in this resolution shall be defined in the Operating Agreement/Joint Powers Agreement of the Alliance.

PASSED, APPROVED AND ADOPTED IN OPEN MEETING, on this 4th day of June, 2012.


Chairman


Secretary/Treasurer


Vice-Chairman


Director

EXHIBIT-B


Affidavit of Publication

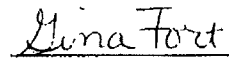
STATE OF NEW MEXICO)
) ss.
COUNTY OF LEA)

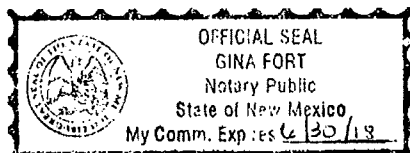
Joyce Clemens being first duly sworn on oath deposes and says that she is Advertising Manager of THE LOVINGTON LEADER, a thrice a week newspaper of general paid circulation published in the English language at Lovington, Lea County, New Mexico; that said newspaper has been so published in such county continuously and uninterruptedly for a period in excess of Twenty-six (26) consecutive weeks next prior to the first publication of the notice hereto attached as hereinafter shown; and that said newspaper is in all things duly qualified to publish legal notices within the meaning of Chapter 167 of the 1937 Session Laws of the State of New Mexico.

That the notice which is hereto attached, entitled Legal Notice was published in a regular and entire issue of THE LOVINGTON LEADER and not in any supplement thereof, for one (1) day(s), beginning with the issue of September 20 , 2016 and ending with the issue of September 20 , 2016.

And that the cost of publishing said notice is the sum of \$ 18.24 which sum has been (Paid) as Court Costs.


Joyce Clemens, Advertising Manager
Subscribed and sworn to before me this 10th day of October , 2016.


Gina Fort
Notary Public, Lea County, New Mexico
My Commission Expires June 30, 2018



LEGAL NOTICE

The Directors of the EDDY-LEA ENERGY ALLIANCE, LLC will hold its regular September meeting on Monday September 26, 2016 at 9:30 a.m. at the EDC of Lea County, 200 East Broadway Street, Hobbs, NM 88240. A copy of the amended agenda will be available at www.eddyleaenergyalliance.org within 24 hours of the meeting. Individuals with disabilities needing assistance to participate may contact the Carlsbad Development of Development at (575) 887-8582. EDDY-LEA ENERGY ALLIANCE, LLC, John Heaton, President.

Published in the Lovington Leader September 20, 2016

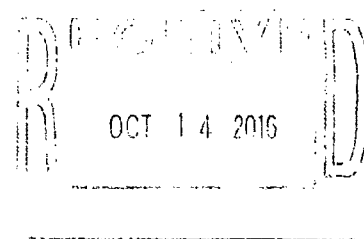


EXHIBIT-C

Nick's argument

At least seven days in advance of September 26, 2016 is September 19, 2016 because:

At least one day in advance of September 26, 2016 is September 25, 2016; and,

At least two days in advance of September 26, 2016 is September 24, 2016; and,

At least three days in advance of September 26, 2016 is September 23, 2016; and,

At least four days in advance of September 26, 2016 is September 22, 2016; and,

At least five days in advance of September 26, 2016 is September 21, 2016; and,

At least six days in advance of September 26, 2016 is September 20, 2016; and,
conclusively,

At least seven days in advance of September 26, 2016 is September 19, 2016.

Considering the notice was posted in the Tuesday edition of the newspaper on September 20, 2016 (*See Exhibit-B*), the invalid meeting of the Alliance instead should have been held on September 27, 2016 to meet the reasonable notice determination of the Alliance and the statutory requirements of the state's Open Meetings Act.

In addition to the time deficiency surrounding the invalid meeting, the newspaper notice erroneously identifies the Alliance's website as www.eddyleaenergyalliance.org. The proper location is www.eddleaenergyalliance.com. Although the Alliance did publish the final agenda nearly a full six days in advance of the invalid meeting, the newspaper notice erroneously indicates that a copy of an amended agenda could have been made available within 24 hours of the meeting, contrary to the statutory requirement within the Open Meetings Act requiring a final agenda to be published at least 72 hours prior to public meetings in the case of a public body that does not ordinarily meet more than once per week.

A compelling example of a recently-issued legal notice by a Member of the Alliance which was provided to the public in a reasonable manner compliant with the Open Meetings Act, as well as that Member's Open Meetings Act resolution with some emphasis added, are attached to the next section of this exhibit.

Signed:



Nick Maxwell

P.O. Box 1064
Hobbs, NM 88241

EXHIBIT-C

LEGAL NOTICE

The **LEA COUNTY BOARD OF COUNTY COMMISSIONERS** will hold a **Regular Meeting** on Thursday, May 3, 2018 at 9:00 A.M. at the Lea County Courthouse in the Commission Chambers located at 100 North Main Avenue, Lovington, New Mexico. A copy of the agenda can be obtained from the Lea County Website www.leacounty.net or the County Manager's Office at 575.396.8602 seventy-two (72) hours prior to the meeting. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Lea County Manager's office located in the Lea County Courthouse in Lovington, New Mexico at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Lea County Manager's Office at the Lea County Courthouse if a summary or other type of accessible format is needed.

LEA COUNTY BOARD OF COUNTY COMMISSIONERS
Ron R. Black, Chair

Lea County Billing Code: 01

- | | |
|---|--------------------------|
| • Publish in the Hobbs News-Sun (P.O. No. 202216) | Thursday, April 26, 2018 |
| • Publish in the Lovington Leader (P.O. No. 202217) | Thursday, April 26, 2018 |

Please send certification of publication to:

Kelli Ferguson, Accounts Payable Specialist
Lea County Finance Department
Lea County Courthouse
100 North Main Avenue, Suite 11
Lovington, New Mexico 88260

Emailed 04/23/2018

Press ter1@hobbsnews.com; lovingtonleader@yahoo.com

County Manager's Office ssout@leacounty.net; mgallagher@leacounty.net

Clerk's Office kwilliams@leacounty.net; thassen@leacounty.net; kmanes@leacounty.net

Legal Dept jcaldwell@leacounty.net

IT Dept rlathrop@leacounty.net; dkline@leacounty.net

Posted to the LC Website on 04/23/2018 by sjsb.

EXHIBIT-C

STATE OF NEW MEXICO COUNTY OF LEA RESOLUTION NO. 18-JAN-017R

OPEN MEETINGS ACT REQUIREMENTS AND PROCEDURES FOR LEA COUNTY

WHEREAS, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission or other policy making body of any state or local public agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

WHEREAS, the Open Meetings Act, NMSA 1978, Section 10-15-1(D), requires the Board of County Commissioners of Lea County ("County Commission") to determine annually what constitutes reasonable notice of its public meetings; and

WHEREAS, NMSA 1978, Section 4-38-12 as amended, allows the County Commission to establish rules and regulations to govern the transaction of county business in these meetings.

NOW, THEREFORE, BE IT RESOLVED that:

1. All meetings of the Board of County Commissioners will be held at the Commission Meeting Room at the Lea County Courthouse, Lovington, New Mexico, at 9:00 a.m. or as otherwise indicated in the meeting notice.
2. Unless otherwise noticed, there will be two regular meetings each month held on the date announced at the prior meeting. Notice of regular meetings will be given at least seven days in advance. The agenda will be available at least seventy-two (72) hours in advance of regular Commission Meetings from the office of the County Manager located on the fourth floor of the Lea County Courthouse, Lovington, New Mexico 88260 and posted on the Lea County website (www.leacounty.net). In addition, a meeting agenda will be sent to all broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have provided a written request for such notice. The agenda will indicate the time, date, place and specific items to be discussed during the County Commission meeting. The County Commission shall take action only on items appearing on the agenda.
3. In addition to the Board's regular meetings, work sessions and special meetings may be called at the discretion of the Chair or upon the request of two Commissioners upon seventy-two (72) hours notice, in accordance with paragraph 5. The final agenda for work sessions

EXHIBIT-C

and special meetings shall be available at least seventy-two (72) hours in advance of the work session or special meeting.

4. Emergency meetings will be called only under unforeseen circumstances that, if not addressed immediately by the County Commission, will likely result in injury or damage to persons or property or substantial financial loss to Lea County. The County Commission will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chair or any two Commissioners upon twenty-four hours (24) notice, unless a threat of personal injury, property damage or substantial financial loss requires less notice. The notice for all emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda. Within ten days of taking action on an emergency matter, the County Commission shall report to the attorney general's office the action taken and the circumstances creating the emergency; provided that the requirement to report to the attorney general is waived upon the declaration of a state or national emergency.

5. For the purposes of regular meetings described in paragraph two of this resolution, notice requirements are met if notice of the date, time, place and agenda or information on how the public may obtain a copy of such an agenda is posted on the Lea County website and provided to all broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have provided a written request for such notice.

6. For the purposes of emergency meetings described in paragraph three of this resolution, notice requirements shall be met if notice of the date, time, place and agenda is posted on the outermost doors of the Courthouse and in the offices of the County Manager, who shall also provide telephonic notice to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.

7. In addition to the information specified above, all notices shall include the following language:

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Lea County Manager's office located in the Lea County Courthouse in Lovington, New Mexico at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Lea County Manager's Office at the Lea County Courthouse if a summary or other type of accessible format is needed.

8. The County Commission may close a meeting to the public only if the subject matter of such discussion or action is exempted from the open meeting requirements under the Open Meetings Act, Section 10-15-1(H) NMSA 1978 Comp.

- A. If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the County Commission taken during the open meeting. The authority for the closure and the subjects to be discussed shall be stated in the

EXHIBIT-C

motion for closure and the vote on closure of each individual member shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in a closed meeting.

- B. If a closed meeting is conducted when the County Commission is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the subjects to be discussed with reasonable specificity, is given to the members and to the general public.
- C. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.
- D. Except as provided in Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by vote of the Commission in an open public meeting.

9. The notice requirements set forth above in paragraphs two, three, and four shall apply to all Boards and Committees appointed by the County Commission.
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- 10. All persons, agencies or organizations who desire to discuss public business or matters with the County Commission at a County Commission meeting, must make their request to the County Manager prior to the commencement of the County Commission meeting.
- 11. The request may be oral or written and must include the name of the person making the request and the subject on which they wish to address the County Commission. Such persons addressing the County Commission will be limited to three (3) minutes.
- 12. All persons, agencies or organizations that require additional time to discuss public business or matters with the County Commission, must make their request, in writing, at least seven (7) days prior to the County Commission meeting. Such persons addressing the County Commission will be allowed up to fifteen (15) minutes in the discretion of the Chairman.
- 13. The County Commission may, by Resolution, adopt additional rules and regulations regarding the conduct of the meetings of the County Commission and any of its subordinate Boards or Committees.

PASSED, APPROVED AND ADOPTED IN OPEN MEETING on this 11th day of January, 2018.

EXHIBIT-C

LEA COUNTY BOARD OF COUNTY COMMISSIONERS

Ron R. Black

Ron R. Black, Chair

Voted: ☒ Yes ☐ No ☐ Abstain

Rebecca Long

Rebecca Long, Vice Chair

Voted: ☒ Yes ☐ No ☐ Abstain

Dean Jackson

Dean Jackson, Member

Voted: ☒ Yes ☐ No ☐ Abstain

Jonathan Sena

Jonathan Sena, Member

Voted: ☒ Yes ☐ No ☐ Abstain

Richard Don Jones

Richard Don Jones, Member

Voted: ☒ Yes ☐ No ☐ Abstain

ATTEST: Keith Manes
Lea County Clerk

**APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:**

By:

Tryon Hassen
Tryon Hassen, Deputy

John W. Caldwell
John W. Caldwell, County Attorney



EXHIBIT-D

**AGENDA FOR REGULAR MEETING
FOR THE BOARD OF DIRECTORS OF THE
EDDY-LEA ENERGY ALLIANCE**

**Monday September 26 at 9:30 AM at the EDC of Lea County, 200 East
Broadway Street, Hobbs, NM 88240**

1. Call to Order
2. Roll Call to establish a Quorum
3. Approval of the agenda Action Item
4. Approval of the minutes from July 18, 2016 Action Item
5. Financial Report – Chip Low Information
6. Presentation and Approval of Accounts Payable – Chip Low Action Item
7. Consideration of Insurance “Terrorism” provision purchase -Heaton Action Item
8. Insurance acquisition status – Chip Low Information
9. Consideration and approval of Resolution Memorializing contract changes
by NM State Board of Finance Action Item
10. Executive Session pursuant to Section 10-15-1 (H)(6) NMSA 1978
(Disposition of Real Property) in reference to 1,000 acre ELEA property
11. Request by Delaware Energy, LLC of Midland to put disposal wells on
Sections 13 and 18 Action Item
12. Review & Consideration of Modified Lease Contract LOI from Crown
Castle –Heaton/Cobb Action Item
13. Update on status of the project – Heaton Information
14. Adjourn

Posted 20th day of September, 2016
Eddy Lea Energy Alliance
Time: 1:00 p. m.
jw

EXHIBIT-D

MINUTES FOR MEETING FOR THE BOARD OF DIRECTORS OF THE EDDY-LEA ENERGY ALLIANCE

On September 26, 2016, 9:30 A.M. At 200 E. Broadway St., Suite A201 Hobbs, NM

Members Present:

John Heaton (telephone)	Susan Crockett(telephone)	Sam Cobb
Chip Low (telephone)	Jack Volpato (telephone)	Jason Shirley(telephone)
Johnny Cope (telephone)	Jason Shirley (telephone)	

Staff Members Present:

John Waters (telephone)
Sally Tomar, EDCLC

Others Present:

Mike Stone

Call meeting to order:

Meeting called to order at 9:30 am by **John Heaton**.

Roll call:

Roll Call established a Quorum.

Approval of the agenda:

John Heaton requested a motion to approve the agenda. The agenda was approved following a motion by **Sam Cobb**, second **Susan Crockett**. Motion carried.

Approval of the minutes from July 18, 2016:

John Heaton requested a motion to approve the minutes dated July 18, 2016. The minutes were approved following a motion by **Johnny Cope**, second **Jason Shirley**. Motion carried.

Financial Report:

Chip Low presented the financial report. Total expenditures for period ending September 23, 2016 \$7,774.52. Motion to approve payment of bills was made by **Johnny Cope**, second **Jack Volpato**. Motion carried.

Consideration of Insurance "Terrorism" provision purchase:

A motion not to consider the Insurance "Terrorism" provision purchase was made by **Johnny Cope**, second **Jack Volpato**. Motion carried.

EXHIBIT-D

Insurance acquisition status:

Chip Low presented the Insurance acquisition status. The insurance is extra through Leavell Insurance at \$2,800/year. Mike Stone concurred to proceed with the insurance.

Consideration and approval of Resolution Memorializing contract changes:

John Heaton presented for Consideration and Approval of a Resolution Memorializing Contract Changes by NM State Board of Finance. Proposed contract condition changes:

- Charging Holtec fee for option agreement with the State Board of Finance
- Delete term of "review" under discussions from document

Sam Cobb pointed out the intent for Fair Market Value on the surface. **Johnny Cope** requested communications be distributed to the board upon motion to approve Resolution by Cobb & seconded by Cope, motion passed unanimously.

Executive Session pursuant to Section 10-15-1 (H)(6) NMSA 1978 (Disposition of Real Property) in reference to 1,000 acre ELEA property

The board went into formal Executive Session at 9:47 a.m. pursuant to Section 10-15-1 (H)(6) NMSA 1978 (Disposition of Real Property) in reference to 1,000 acre ELEA property.

Regular executive session commenced at 9:55 a.m. Stated by **John Heaton**, no action or discussion other than that of the ELEA property occurred during Executive Session.

Request by Delaware Energy, LLC of Midland to put disposal wells on Sections 13 and 18

Heaton presented a request by Delaware Energy, LLC of Midland to put disposal wells on Section 13 and 18.

A motion to reject by **Sam Cobb**, second **Jack Volpato**. Motion carried.

Review & Consideration of Modified Lease Contract LOI from Crown Castle:

Review & Consideration of Modified Lease Contract LOI from Crown Castle. Discussed adding four more 5 year terms to the contract with a \$6000 signing bonus. A 20% amount of the contract received if any new tenants were added to the cell tower. Holtec has no objection. **Sam Cobb** noted in paragraph 2A LOI a return date of August 31, 2016. The decision was to cross out August 31, 2016 and change the return date to September 30, 2016. A motion to approve Modified Lease Contract LOI from Crown Castle from **Sam Cobb**, second **Jack Volpato** and unanimously passed.

EXHIBIT-D

Update on status of the project:

John Heaton reported concern for delay. The contract terms between Holtec and the State Land Office are being completed. Holtec hired an environmental consulting firm. They intend to have their application in by end of March.

John Heaton adjourned the meeting at 10:00 a.m.

Dec 1, '16
Minutes Approved


Chairman