

AGENDA
EDDY-LEA ENERGY ALLIANCE
SPECIAL MEETING OF THE BOARD OF DIRECTORS
WEDNESDAY, JULY 30, 2025, AT 9:00 A.M.
MEETING HOSTED BY CITY OF CARLSBAD, NM AT
CITY OF CARLSBAD COUNCIL CHAMBERS, 114 S. HALAGUENO STREET,
CARLSBAD, NM 88220

- | | |
|---|--------|
| 1. Call to order | Chair |
| 2. Roll call to establish quorum | Chair |
| 3. Consider approval of amendments to Revenue Sharing Agreement with Holtec | Action |
| 4. Consider approval to convene into closed session to discuss Agreement with Holtec regarding litigation matters pursuant to N.M.S.A. 1978 Section 10-15-1H(7) Attorney--Client Privilege pertaining to threatened or pending Litigation | Action |
| 5. Reconvene into Open Session-consider approval of Initiating litigation against the State of New Mexico | Action |
| 6. Consider approval of agreement with EOG to conduct pipeline survey | Action |
| 7. Public Comment (limited to 3 minutes per person) | |
| 8. Adjournment | Action |

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 Hobbs City Clerk's Office at (575) 397-9200 at least seventy two (72) hours 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 Hobbs City Clerk's Office if a summary or other type of accessible format is needed

ITEM 3

FIRST AMENDMENT TO REVENUE SHARING AGREEMENT

This First Amendment to the Revenue Sharing Agreement (this "Amendment") is made and entered into effective as of this ____ day of July, 2025 (the "Effective Date"), by and between Holtec International ("Holtec") and Eddy-Lea Energy Alliance Limited Liability Company ("ELEA") (collectively, the "Parties" and each a "Party").

RECITALS

- A. The Parties previously entered into a Revenue Sharing Agreement (the "Agreement") effective as of ~~December 9, 2016~~ February 15, 2017 (the "Agreement").
- B. The Parties now wish to amend the Agreement as described in this 2017 (the "Agreement").

Amendment.

NOW, THEREFORE, in consideration of the mutual covenants and agreements specified in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree to amend Section 1, (b) of the "Agreement" as follows:

Section 1

(b) Neither Holtec nor ELEA will sponsor or promote the development of any competing central interim storage project for SNF or HLW in the State of New Mexico or in a state bordering the State of New Mexico. However, notwithstanding the provisions of the Agreement, Holtec or ELEA may provide technical assistance, sponsor, or promote a sponsor or project, of an Interim Storage Facility in an adjacent state to New Mexico or in New Mexico, only upon Holtec agreeing to the following:

1. Diligently respond to DOE's Collaborative Siting Requests for a federal facility, including but not limited to, Expression of Interest, any requests for further information, an RFP with the surrender of the site to DOE with Holtec's financial demands to do so, and other conditions approved by ELEA; and

2. Holtec will provide a written agreement to ELEA that Holtec will agree to provide fifty percent (50%) of the legal costs should ELEA choose to sue the State of New Mexico to overturn the provisions of the 2023 law prohibiting the Consolidated Interim Storage Facility from occurring on ELEA property.

1. Definitions. Unless otherwise defined in or modified by this Amendment, all capitalized terms have the meanings given to them in the Agreement.

2. Amendment.

Any limitation in the Agreement, either express or implied, on either Parties' ability to sponsor or promote the development of any competing central interim storage project for Spent Nuclear Fuel or High-Level Waste in a state bordering the State of New Mexico or in New Mexico, is deemed to be null and void. For the avoidance of doubt, the Parties intend to be completely free of any restraints on the potential to sponsor or promote the

development of other central interim storage projects in states bordering New Mexico or in New Mexico.

3. Other Terms and Conditions Not Affected. This Amendment is not intended by the Parties to be, and shall not be construed to be, a novation or termination of the Agreement. Except as expressly amended herein, all of the other terms and conditions of the Agreement shall continue and remain in full force and effect.

4. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same Amendment.

[Signature Page Follows]

CONFIDENTIAL

ITEM 6

CONSENT AND AGREEMENT FOR TEMPORARY RIGHT OF ACCESS

That, as of and effective on the 17th day of July, 2025, (the "Effective Date"), Eddy-Lea County Energy Alliance, whose mailing address is 101 N. Halagueno St., Carlsbad, New Mexico 88220 ("Grantor"), in consideration of TEN AND NO/100 DOLLARS (\$10.00) cash, and other good and valuable consideration paid by EOG Resources, Inc., whose mailing address is 5509 Champions Dr, Midland, Texas 79706, (hereinafter referred to as "Grantee") the receipt and sufficiency of which are hereby acknowledged, and in consideration of and subject to the covenants and agreements herein to be kept and performed by Grantee, Grantor, insofar as Grantor has the right to do so, does hereby grant unto Grantee and Grantee's agents and/or contractors a temporary right of access and entry upon the following described property in Section 13, Township 20S, Range 32E, and Section 18, Township 20S, Range 33E, Lea County, New Mexico: (the "Lands"). This right of access and entry is subject to the following terms, conditions, and other provisions:

1. **Purpose.** Grantee and its contractors shall have the right to enter upon the above-described Lands for purposes of conducting civil surveying work, archaeological surveys, biological, and cultural surveys and for purposes of staking a potential facility along with accompanying easements for roads, pipelines or utility lines.

This right of entry does not give Grantee the right to conduct any seismic studies or testing upon the Lands or to blade in, rough in, or create any roadway, or construction path sites, which work will only be done after Grantee has obtained from Grantor appropriate right of way easement agreements.

2. **Term.** The term of this agreement shall be for a term of seventy-five (75) days from the date the same is signed by Grantor. Grantee will notify Grantor forty-eight (48) hours prior to entering the Lands to begin work.

3. **Conditions of Entry.** Grantee agrees that the right of it and its employees, agents, and Grantees to enter upon the Lands of Grantor for the purposes herein set forth shall be subject to the following conditions of use and that violation of the same shall be grounds for immediately terminating this right of entry:

- (a) Grantee shall not permit firearms, dogs (with the exception of service dogs), alcohol, or illegal drugs to be brought onto the Lands by its employees, agents, or other member of Grantee Group (as defined further herein).
- (b) Grantee agrees that Grantee's employees, invitees, and other persons pursuant to this agreement while on the Lands will not conduct any hunting nor will there be any search for archaeological sites or cultural artifacts other than as is required as part of the scope of the work to perform an archaeological survey and clearance of any potential roadways or sites.
- (c) Grantee further agrees that any archaeological or cultural artifacts, including arrow heads, metates and manos, pottery shards or similar cultural artifacts, shall be left in place and notice of any findings reported to Grantor.

- (d) Grantee further agrees that copies of any written reports that are prepared by it or are prepared for it by Grantee's agents, consultants, or contractors relating to biological, cultural, or environmental surveys or studies or conditions on the Lands as it pertains to Grantor's Lands shall be provided to Grantor within sixty (60) days after the report is received by Grantee. Also, if any geotechnical work is done, all holes and/or trenches will be filled back to natural grade level.
- (e) There shall be no use of any part of the premises for recreational purposes, including riding motorcycles, four wheelers, ATVs or other similar all-terrain vehicle activities. If four wheelers or similar all-terrain vehicles are used as part of conducting the surveying work that needs to be completed upon the Lands, such use shall be limited to business purposes.
- (f) No person shall enter the Lands except for bona fide employees, contractors or subcontractors, or agents of Grantee actually engaged in operations necessary for Grantee to carry out its work pursuant to the rights granted hereby.
- (g) Grantee shall remove all trash and debris brought on the Lands by Grantee and its employees, contractors or subcontractors, or agents. Grantee shall not leave any trash or debris on the Lands from their present activities or work on the Lands as provided for by this Agreement.
- (h) In the course of conducting the survey and other work upon the Lands, no fences will be cut. Any gates will be closed if closed when found.

4. Indemnification and Assumption of Risk.

- (a) GRANTEE HEREBY AGREES TO RELEASE, PROTECT, HOLD HARMLESS, INDEMNIFY, BE RESPONSIBLE FOR, AND DEFEND GRANTOR, INCLUDING GRANTOR'S AFFILIATES, TENANTS, EMPLOYEES, AGENTS, REPRESENTATIVES, CO-LESSEES, PARTNERS, JOINT VENTURERS, CO-OWNERS, MEMBERS, MANAGERS, GRANTOR'S CONTRACTORS (AND SUBCONTRACTORS OF EVERY TIER) AND THEIR AFFILIATES, OFFICERS, DIRECTORS AND OTHERS IN PRIVITY WITH GRANTOR, AND THEIR RESPECTIVE HEIRS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, "GRANTOR GROUP") FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, SUITS, LOSSES, DAMAGES (INCLUDING PUNITIVE DAMAGES), COSTS, FINES, PENALTIES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES, COSTS, AND EXPENSES INCURRED IN INVESTIGATING AND DEFENDING AGAINST THE ASSERTION OF LIABILITY, AS SUCH FEES, COSTS, AND EXPENSES ARE INCURRED) ARISING DURING ANY OF GRANTEE'S OR ITS CONTRACTORS (AND SUBCONTRACTORS OF EVERY TIER), REPRESENTATIVES, EMPLOYEES, AGENTS OF GRANTEE, OR

OTHER PERSONS ENTERING UPON THE GRANTOR'S LANDS UNDER THE AUTHORITY OF THIS AGREEMENT (COLLECTIVELY, "GRANTEE GROUP") ACTIVITIES OR OPERATIONS, OR DIRECTLY OR INDIRECTLY ARISING OUT OF, OR IN ANY WAY CONNECTED WITH OR INCIDENTAL TO, THIS AGREEMENT OR THE RIGHTS GRANTED HEREIN TO GRANTEE. SUCH RELEASE AND INDEMNIFICATION SHALL INCLUDE, WITHOUT LIMITATION, ALL CLAIMS ARISING IN FAVOR OF ANY THIRD PARTY OR ANY MEMBER OF GRANTEE GROUP AND COVER AND INCLUDE ALL CLAIMS FOR PERSONAL INJURY, DEATH, DAMAGE TO PROPERTY OR NATURAL RESOURCES, AND COMPLIANCE WITH ANY GOVERNMENTAL RULE, REGULATION, ORDER, DIRECTIVE, OR DEMAND. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, GRANTEE SHALL HAVE NO RESPONSIBILITY WHATSOEVER FOR THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT ON THE PART OF GRANTOR GROUP.

- (b) Grantor does not make any warranty or representation of any type as to the conditions existing or that may exist on the Lands, locations, or other premises, or whether any hazards may exist on the Lands, and Grantor explicitly disclaims any and all such warranties or representations, regardless of whether such arise as a result of statute or common law. Grantee enters upon the Lands and permits other to do so at its own risk. Grantee specifically accepts the Lands in their "as-is" condition. In addition, Grantor shall have no obligation to inspect the Lands now or at any time during the term of this Agreement to determine the condition of the Lands, as it may exist from time to time, or to take any action with regard to the condition of the Lands. Except in connection with Grantor's gross negligence or intentional acts, **Grantee and Grantee Group waive any claims and causes of action that it may have at any time, arising out of, or in connection with, the condition of the Lands and hereby releases the Grantor, its employees, agents, invitees, representatives, officials and directors from any and all liability whatsoever (including, without limitation, for personal injury or property damage) in any manner arising or resulting from, caused by, connected with or related to the exercise by Grantee of the rights granted by this Agreement, including entry upon and use of the Lands by Grantee, its employees, consultants, agents, representatives, contractors and invitees.**

5. Grantee agrees that prior to commencement of any activities upon the Lands, Grantee shall maintain the minimum insurance requirements set forth in Exhibit "A" and will provide Grantor certificates of insurance evidencing compliance. The Parties agree that the insurance requirements of this paragraph and Agreement shall support but not limit the Grantee's indemnity obligations, except to the extent mandated by applicable law. Grantor's failure to object to an improper or incomplete certificate of insurance, or Grantee's failure to provide such a certificate, shall not relieve Grantee of any of its insurance obligations under this Agreement. If Grantee fails to maintain such insurance in full force and effect, such failure to do so shall constitute a breach of this Agreement

for which Grantee's right of entry shall terminate effective immediately with termination of such insurance coverage.

6. Grantor acknowledges that Grantee has agents, contractors, and consultants who will conduct this work and the right granted to Grantee herein includes the right for it to authorize its agents, contractors, and consultants to perform the work on Grantor's Lands that Grantee requires. Provided, however, Grantee shall indemnify Grantor for the actions of such agents, contractors, and consultants when on Owner's Lands.
7. This Agreement shall be governed by the laws of the State of Texas. The exclusive venue for any action under this Agreement shall be the federal and state courts of Harris County, Texas.
8. This Agreement embodies and includes the entire agreement between the undersigned parties and no reliance is placed upon previous writings, communications or implied representations, inducements or understandings of any kind whatsoever and they are excluded here from.
9. **Notices.** All notices and other communication given in connection with this right of entry shall be to:

Denise Madrid Boyea
Eddy-Lea Energy Alliance
101 N. Halagueno St.
Carlsbad, NM 88220
dmmadrid@cityofcarlsbadnm.com

Michael Yemm
EOG Resources, Inc.
5509 Champions Drive
Midland, Texas 79706
432-686-3714
432-556-7258 [Cell]
Michael_Yemm@eogresources.com

[remainder of page intentionally blank; signatures on the following page]

This agreement shall not be in effect until it has been duly signed by a representative of Grantee authorized to bind Grantee for all purposes herein.


Executed this _____ day of July 2025.

GRANTOR:

EDDY-LEA ENERGY ALLIANCE

GRANTEE:

EOG RESOURCES, INC.



Katie L. Jirasek - Agent and Attorney-in-Fact

EXHIBIT A

Minimum Insurance Requirements

As used throughout this Exhibit A:

- The terms "Grantor Group" shall have the same meaning as set forth in the Agreement to which this insurance exhibit applies; and "Grantee Group" shall mean, individually and collectively: (a) Grantee; (b) its affiliates; (c) the co-owners, members, and managers of (a) and (b); (d) Grantee's contractors and subcontractors of every tier and their affiliates; and (e) the agents, officers, directors and employees of (a), (b), (c), and (d).
- The term "marine operations" shall include any operations on, over, or adjacent to navigable waters or involving maritime workers.

A. WITHOUT LIMITING the indemnity obligations or liabilities of Grantee or its insurers, Grantee shall carry the following minimum insurance coverages:

1. **Workers' Compensation and Occupational Disease Insurance** purchased through an insurance company or a state fund covering the states in which: (a) Services are to be performed; (b) Grantee's employees reside; and (c) Grantee is domiciled. Coverage shall include:

"Alternate Employer" endorsement with Grantor Group shown as the Alternate Employer on the endorsement.

2. **Employer's Liability Insurance** with limits of not less than \$1,000,000 covering injury or death to any Grantee employee which may be outside of the scope of the Workers' Compensation statute of the state in which the Services are performed.
3. **Commercial General Liability Insurance** with minimum limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate for Bodily Injury and Property Damage, including, but not limited to, the following coverage:
 - a. Premises and Operations Coverage
 - b. Contractual Liability covering liabilities assumed under this Agreement, including "Action Over" claims
 - c. Broad Form Property Damage Liability Endorsement
 - d. Products and Completed Operations (for a minimum of two years after completion of the Services)
 - h. Pollution Liability (alternatively, pollution coverage may be provided under a stand-alone or other policy)
4. **Automobile Liability Insurance** (including contractual liability unless provided in the Commercial General Liability policy) covering hired, non-owned, and if applicable, owned vehicles with minimum combined single limits of not less than \$1,000,000 for Bodily Injury and Property Damage. Policy shall include coverage for driverless vehicles if applicable.

IN THE EVENT, and only in the event, the Services involve transporting hazardous materials (including but not limited to crude, produced water or other hydrocarbon-based products) for any reason, the transporting contractor shall be required to maintain Automobile Liability insurance in the form of a motor carrier or truckers policy that provides broadened pollution coverage (including coverage while loading or unloading of materials onto/off the vehicle). Such coverage shall be by an MCS 90 endorsement and a CA9948 or a substantially equal form.

5. **Excess / Umbrella Liability:** Provide excess / umbrella liability insurance (with coverage at least as broad as underlying (including pollution coverage if applicable) for categories A.2, A.3, and A.4, above with minimum limits not less than \$5,000,000 per occurrence, including a "drop down" provision should an aggregate limit be exhausted, which coverage shall be in a form satisfactory to Company.

B. Endorsements and Other Provisions

1. EVERY INSURANCE POLICY maintained by Grantee which provides any coverage relating to the Services performed under this Agreement, whether or not in excess of the minimum limits required by this Agreement, must provide adequate territorial limits and comply with all applicable state and national laws or regulations. As respects to every insurance policy maintained by Grantee which provides any coverage relating to the Services performed under this Agreement, whether or not in excess of the minimum limits required by this Agreement, Grantee and its insurers must waive their rights of subrogation against Grantor Group and Grantor Group's insurers.

2. EVERY INSURANCE POLICY (except for Workers' Compensation, Employer's Liability maintained by Grantee which provides any coverage relating to the Services performed under this Agreement, whether or not in excess of the minimum limits required by this Agreement, shall:

- a. name Grantor Group as additional insured to the full limits of each policy;
- b. be specified as primary and non-contributory regardless of any other insurance carried by, or available to, Grantor Group; and
- c. not contain any cross liability exclusion.

All policies naming Grantor Group as additional insureds shall provide coverage to the additional insureds on a broad form basis with such additional insured coverage being just as broad as the coverage provided to the named insured, including coverage for the sole or concurrent negligence of each additional insured and not being restricted to: (i) "ongoing operations;" (ii) coverage for vicarious liability; or (iii) circumstances in which the named insured is partially negligent. Any policy that limits coverage afforded to Grantor Group as additional insureds to liabilities arising out of acts or omissions of Grantee, or any similar limitation, shall not be in compliance with the requirements of this Agreement. The coverage afforded as an additional insured is intended to be distinct from, and in addition to, any liability of Grantee to indemnify Grantor Group and the indemnity obligations should, in no way, be read as a limitation upon Grantor Group's status as an additional insured. All insurance obligations in this Exhibit A shall be independent of the insurance obligations under Paragraph 7E and shall remain in full force and effect regardless of whether the indemnity provisions contained in this Agreement are enforceable.

- 3. Grantee (and/or Grantee's agent or broker) shall provide 30 days (10 days if due to non-payment of premium) prior written notice to Company of (i) any cancellation, (ii) reduction in specified policy limits, (iii) any material change to the required coverage which adversely affects Company or (iv) nonrenewal to any of the policies described herein. However, no coverage reduction, change or cancellation shall relieve Grantee of its obligation to maintain insurance in accordance with this Agreement.
 - 4. Any deviation from the minimum requirements must be submitted to Company for written approval prior to execution of this Agreement.
 - 5. All premiums, deductibles, and self-insured retentions shall be at the sole expense of Grantee.
 - 6. Prior to commencement of Services, and thereafter following each policy renewal, a certificate of insurance with attached endorsements as required by this Agreement must be furnished to Company.
 - 7. It is understood and agreed that the insurance required by this Exhibit A shall not be invalidated as regards the interest of Grantor Group by any act or neglect (including a breach or violation of any warranties, declarations or conditions) of the named insured or any member of Grantee Group.
- C. Every insurance policy maintained by Grantee which provides any coverage relating to the Services performed under this Agreement shall be written by a reputable insurance company with a current Best's Guide Rating of A- and Class VII or better (latest edition in effect as of the date of this Agreement and subsequently in effect as of the date of renewal of Grantee's policies) and authorized to do business in the state(s) in which the Services are to be provided.
- D. The insolvency, bankruptcy, receivership or failure of any insurance company to pay all claims accruing hereunder shall not relieve Grantee of any of its obligations herein.
- E. All limits as required above, may be met through the use of primary and excess policies at the discretion of Grantee, so long as the total amount of insurance coverage provided is equal to or greater than the amount specified in this Exhibit A.
- F. Insurance covering loss or damage to Grantee's or Grantee Group's property, including, but not limited to, tools, vehicles, UAVs, equipment, machinery, trailers, temporary buildings or sheds owned, leased or rented, shall be maintained by Grantee or Grantee Group at its sole discretion and at its own expense, and if such insurance is purchased, the policy shall provide a waiver of subrogation rights against Grantor Group. Regardless of whether coverage is purchased or not, Grantor Group shall have no liability for any loss or damage to such property.
- G. FAILURE OF GRANTEE GROUP TO SECURE the insurance coverages, or to comply fully with any of the insurance provisions of this Agreement, or to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of this Agreement shall be the responsibility of Grantee and shall in no way act to relieve Grantee from the obligations of this Agreement, any provisions hereof to the contrary notwithstanding. In the event that liability for loss or damage be denied by the underwriter(s), in all or in part, because of breach of said insurance by Grantee or for any other reason, or if Grantee or its subcontractors fail to maintain any of the insurance herein required, **GRANTEE SHALL RELEASE, DEFEND, HOLD HARMLESS AND INDEMNIFY GRANTOR GROUP AND THEIR INSURERS AGAINST ALL CLAIMS,**

DEMANDS, COSTS AND EXPENSES, INCLUDING ATTORNEY'S FEES, WHICH WOULD OTHERWISE BE COVERED BY SAID INSURANCE EVEN IF THE LIABILITY ARISES OUT OF THE NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT OF GRANTOR GROUP. Notwithstanding anything to the contrary herein, Grantee's indemnification obligations under this Agreement (express or implied) shall not be limited to the amounts or to the scope of coverage provided by insurance that is required of Grantee under the terms hereof.