



STATE OF NEW MEXICO
DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

BATAAN MEMORIAL BUILDING
407 GALISTEO STREET, SUITE 236
SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 FAX (505) 827-6338

October 14, 2018

Jill Caverly
U.S. Nuclear Regulatory Commission
Division of Fuel Cycle Safety, Safeguards and Environmental Review
Office of Nuclear Fuel Material Safety and Safeguards
Washington, D.C. 20555-0001

Re: Holtec Internationals' proposed Hi-Store Consolidated Interim Storage (CIS) Facility in Lea County, New Mexico (Docket 72-1051; HPD log 108687)

Dear Ms. Caverly,

On behalf of the New Mexico State Historic Preservation Office (SHPO), I want to thank the Nuclear Regulatory Commission (NRC) for providing the New Mexico Historic Preservation Division (HPD) with information on the aforementioned Hi-Store project. I understand that the NRC is initiating Section 106 consultation for the undertaking and intends to coordinate consultation under NEPA and the NHPA with the Environmental Impact Statement.

SHPO recently received and reviewed Holtec's *Environmental Report on the Hi-Store CIS Facility Store*, as well as, our records concerning this undertaking. This letter provides SHPO comments concerning the undertaking's effects on historic properties per Title 54 USC Section 306108 (aka Section 106 of the National Historic Preservation Act).

To the best of my understanding, the ER (Section 4.7.5, Agency Consultation) indicates that NRC has not yet consulted with Tribes who have in interest in Lea County, and that traditional cultural properties have not yet been identified. This needs to be done as soon as possible.

Lea County Tax Assessor's records indicate that the Eddy-Lea Energy Alliance (ELEA) LLC owns about 1000 acres of the APE, whereas the land status (ownership) for another forty acres is

unidentified. During development of the EIS, please identify land status for all the parcels covered by the license.

Please note that the ELEA is a subdivision of the State of New Mexico and that the State's cultural resources laws apply on state lands. This is important because any future cultural resources work on ELEA owned land will need to be conducted under state permits and meet state standards.

The ER indicates that the NRC license would authorize construction of the facility on 1040 acres of land controlled by Holtec (ER Section 2.2). Our records show that only about 300 acres of the APE have been surveyed. SHPO recommends a survey to identify and evaluate historic properties for the entire 1040 acres of the undertaking's area of potential effect (APE). New surveys, however, need not duplicate recent work within the APE (e.g NMCRIS 137254 conducted by Statistical Research Incorporated).

The Cultural Resources section (Section 3.7) of the ER indicates that only, LA 89676 and LA 149299 are in the direct effects APE, and that forty sites are in the indirect affects APE. Our records, however, show that four archaeological sites (LA 42195, LA 89675, LA 89676, and LA 187010) are within the 1040 acre APE. We have no record that the NRC has consulted on theses properties' respective determinations of eligibility.

Chapter 4: *Section 4.7.3 Comparable NRC Cultural Analysis* seems to recognize that there may be unassessed effects to historic properties but does not assess what the effects may be. The lack of information in the ER suggests that NRC has not conducted enough analysis to assess and consult upon the undertaking's direct and cumulative effects to historic properties.

SHPO recommends the following steps in order to advance the consultation.

- Clarify land status in the Area of potential effects (APE).
- Consult with interested tribes and the Carlsbad Field Office of the Bureau of Land Management, and any other land managing agencies who own land in the APE.
- Provide SHPO copies of tribal consultation letters so that we can keep them with our records.
- Conduct a survey to identify and evaluate historic properties in the entire APE.
- Provide SHPO, the BLM and other interested parties with copies of the survey report, with determinations of eligibility and an assessment of effect.
- Consult on the resolution of adverse effects.

The ER indicates that the project may extend twenty years into the future, with an expansion of facilities in undefined locations within the APE. It is SHPO's opinion that the Section 106 consultation might best be completed prior to the Record of Decision with the development of a

Programmatic Agreement or perhaps a Memorandum of Agreement. Please consider these consultation options as more information on the undertaking is obtained. We will be happy to assist in the development of any agreement documents.

We are looking forward to advancing the consultation for this important undertaking. If you ever have any questions or comments, please feel free to call me directly at 505-827-4225 or email me at bob.estes@state.nm.us.

Sincerely,

A handwritten signature in cursive script that reads "Bob A. Estes".

Bob Estes Ph.D.

Historic Preservation Division Staff Archaeologist

State of New Mexico
Department of Cultural Affairs
HISTORIC PRESERVATION DIVISION
Bataan Memorial Building
407 Galisteo Street, Suite 236
Santa Fe, New Mexico 87501

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Jill Caverly
U.S. Nuclear Regulatory Commission
Division of Fuel Cycle Safety
Safeguards and Environmental Review
Office of Nuclear Fuel Material Safety and
Safeguards
Washington, D.C. 20555-1001

