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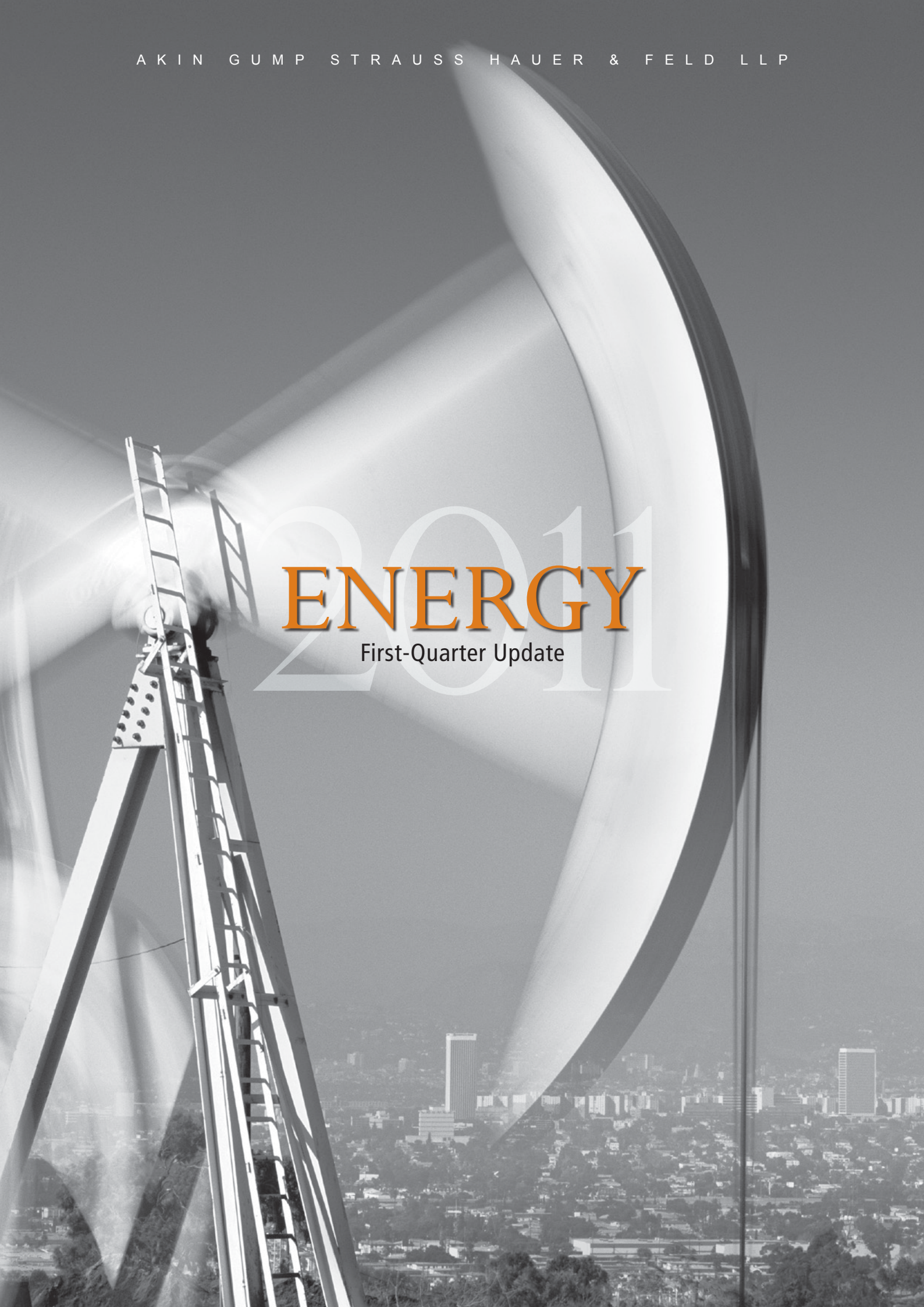

2011

ENERGY

First-Quarter Update

RECENT ACCOLADES

CHAMBERS GLOBAL 2011

James L. Rice III

Partner | Houston | jrice@akingump.com | 713.220.8116

Energy and global transactions practice leader James Rice was ranked as a top energy and natural resources lawyer in the United States.

Dino Barajas

Partner | Los Angeles | dbarajas@akingump.com | 310.552.6613
New York | 212.836.2311

Project finance and renewable energy partner Dino Barajas was recognized as a leading attorney in corporate/M&A and projects within Latin America. Mr. Barajas is also recognized nationally within the United States for his project experience capabilities and is a recognized as a regional expert in projects, banking and finance and corporate/M&A.

Clients say James Rice is "very knowledgeable and experienced on so many different issues, we can go to him with anything" and clients recognize Dino Barajas because he "excels at power projects in Central America."

— *Chambers Global* (2011)

Natalia R. Baratiants

Partner | Moscow | nbaratiants@akingump.com | (7) 495.783.7777

Partner Natalia Baratiants is recognized as a leader in energy and natural resources within Russia.

Richard J. Wilkie

Partner | Moscow | rwilkie@akingump.com | (7) 495.783.7830

Moscow office partner in charge Richard Wilkie is recognized as a leader in corporate/M&A and energy and natural resources within Russia. He is also recognized within Russia for energy and natural resources—USA focus and corporate/M&A—USA focus.

Clients appreciate [Natalia] "Baratiants for her 'hands-on approach and confident co-ordination" and appreciate Richard Wilkie for his "sharp analysis and commercially savvy style."

— *Chambers Global* (2011)

Dear Clients and Friends,

A year after the Macondo well incident, we see an industry that continues to be affected by global events. The turmoil in Egypt and the civil unrest in Libya, along with the worldwide political reaction to the earthquake-damaged reactors in Japan have kept oil and energy front and center on the global stage due to the volatility of the market and rising prices.

However, considering all of the outside factors affecting the industry, we have begun to see a rise in deal-making within the energy sector — upstream (including renewables), midstream and downstream. M&A and capital markets activity is very strong within the energy sector, even frothy in certain areas. It seems that a new midstream company is formed daily, whether through an MLP IPO, the launch of a private equity sponsored management team, or the formation of a joint venture or an acquisition. In the upstream sector, shale is quickly losing its label of "unconventional."

Shale gas plays continue to gain attention in the market, with investments being made by the largest and smallest participants. Over the next few months, we will continue to see more companies investing in shale both domestically and internationally. Further, China has emerged as a power player in the energy sector and will continue to dominate the headlines with significant investments in North America and around the world.

In April 2011, the firm hosted an event in Dallas and Houston titled "Understanding Asia," in which we partnered with Hill & Knowlton and Public Strategies to give an overview of this unique marketplace. On page 7 of this quarterly, you'll find a forward-looking article, co-authored by partners Hank Terhune and Brian Pomper, that discusses the impact the Fukushima Daiichi nuclear accident may have on the United States nuclear market. Immediately following that article, you'll find an article by Ying White, a partner in our Beijing office, that discusses Chinese investment in the global natural resources market. Our firm has significant experience working with Chinese companies and doing business in Asia, so we hope you will consider us for guidance on future matters.

— The Energy Team

MERGERS & ACQUISITIONS

ANADARKO PETROLEUM CORPORATION IN JOINT VENTURE WITH KOREA NATIONAL OIL CORPORATION

A team of Akin Gump attorneys advised Anadarko Petroleum Corporation in its sale of one-third of its Eagle Ford Shale assets to Korea National Oil Corporation (KNOC) for a total of $1.55 billion. The investment was made entirely in the form of a carry, funding approximately 100 percent of Anadarko's 2011 post-closing capital costs in the basin and up to 90 percent thereafter until the carry is exhausted, as foreseen, by the end of 2013. As part of the joint venture agreement between the two companies, KNOC received about 80,000 acres in the Eagle Ford Shale as well as an additional 16,000 dry-gas acres in the Pearsall Shale. According to Bloomberg reports, this deal is the second-largest purchase of U.S. oil and natural gas fields so far in 2011.

"We have expanded our midstream infrastructure and established various service agreements concurrent with our drilling pace in the Eagle Ford Shale, leading Anadarko to become the largest producer in the play during the fourth quarter of 2010…We are very pleased to welcome KNOC as our partner in this development and hope we will be able to pursue other investments together in the future."

— Anadarko President and Chief Operating Officer Al Walker

Conflicts Committee of Regency Energy Partners LP

- Akin Gump represented the Conflicts Committee of Regency Energy Partners LP in its $1.9 billion acquisition of LDH Energy Asset Holdings LLC through its joint venture with Energy Transfer Partners LP.

York Capital Management

- Formation of a $42 million joint venture with Deep Down, Inc. and in an acquisition by the joint venture of Cuming Corporation and Flotation Technologies, Inc.

ArcLight Capital Partners

- $200 million sale of assets of Anglo-Suisse Offshore Partners, LLC to Energy Partners, Ltd.

FirstEnergy Corp.

- Pending $485 million sale of the Fremont Energy Center to American Municipal Power, Inc.

El Paso Pipeline Partners

- $667 million acquisition of an additional 25 percent interest in Southern Natural Gas Company from El Paso Corporation

Hawkeye Renewables LLC

- Sale of ethanol plants in Iowa Falls and Fairbank, Iowa, to Flint Hills Resources Renewables, LLC, an affiliate of Koch Industries, Inc., for an undisclosed amount

CAPITAL MARKETS

EOG Resources, Inc.

- $1.4 billion public offering of common stock

Gulfport Energy Corporation

- $176 million public offering of common stock and secondary offering by selling shareholders

Laredo Petroleum

- $350 million Rule 144A/Reg S high-yield senior unsecured note offering

Max Petroleum PLC

- Placement of $85 million ordinary shares to be applied for admission to trading on AIM

LUKOIL International Finance B.V.

- $1.5 billion Reg S offering of 2.625 percent senior unsecured convertible bonds due June 2015

Norimet and its parent company, MMC Norilsk Nickel

- $970 million registered secondary offering

LENDING

LUKOIL

- $100 million revolving credit facility
- $150 million revolving credit facility

Element Power US, LLC

- $35 million loan and security agreement

FirstEnergy Corp.

- $57.4 million facility credit agreement
- $25 million facility credit agreement
- $50.7 million facility credit agreement
- $91.4 million facility credit agreement

FirstEnergy Nuclear Generation Corp.

- $47 million facility credit agreement
- $60 million letter of credit and reimbursement agreement

Ram Power Corp.

- $12 million credit agreement
- $50 million credit agreement

THE FUKUSHIMA DAIICHI NUCLEAR ACCIDENT – WILL IT AFFECT NUCLEAR POWER IN THE U.S.?

BY HANK TERHUNE AND BRIAN POMPER

The accident at the Fukushima Daiichi nuclear power station, operated by the Tokyo Electric Power Company (TEPCO), has raised serious and ongoing challenges for TEPCO in stabilizing and securing the damaged reactors and related facilities, including used fuel storage pools. Located some 150 miles north of Tokyo, in an area devastated by the 9.0 magnitude Tōhoku earthquake and tsunami on March 11, key Fukushima Daiichi equipment and facilities were disabled or badly damaged by both the earthquake and the subsequent tsunami.

While the extent of damage to these reactors and related facilities is still being assessed, the accident has been the focus of public policy debate around the world, including in the United States.

Reaction to the accident has been dramatic in some nations. Soon after the accident in Japan, German Chancellor Angela Merkel ordered a shutdown of Germany's oldest reactors. The reaction in the United States, in contrast, has been more measured. For instance, the U.S. Nuclear Regulatory Commission (NRC) has announced a three-month inspection program that will verify that existing reactors have implemented previously approved safety upgrade measures and that they have trained operators on duty. It will also conduct a longer six-month safety investigation.

Several congressional hearings have also been held regarding the accident and its implications for nuclear power in the United States. While the preliminary nature of information available from the Fukushima Daiichi station

makes it difficult to reach firm conclusions, some of the debate has focused on issues such as on-site backup power supplies, used fuel storage and emergency planning. These and other issues are the subject of debate and inquiries at the state and local level as well. The continuing evaluation of the Fukushima Daiichi reactors and facilities and the ongoing safety reviews in the United States will, in large measure, dictate whether specific regulatory or policy changes may be pursued.

Public opinion in the United States remains strongly in favor of this power source, which provides approximately 20 percent of domestic electric power needs. A CNN/ Opinion Research Corporation survey released after the accident found that 57 percent of those polled approve of the domestic use of nuclear energy, and 68 percent support the continued operation of existing nuclear power plants in the United States.

This public support is reflected in Washington as well, with both the Obama administration and key members of Congress from both political parties favoring deployment of new nuclear facilities as an important source of clean, non-carbon-emitting, base load electric power. Incentives (e.g., federal loan guarantees) have been provided in a range of legislation, including the last two major energy bills, to support deployment of the first new nuclear plants to be ordered in the United States since 1979.

The question, therefore, is whether the Fukushima Daiichi accident will slow or cause reconsideration of the nuclear "renaissance" that many have hoped for the United States. This seems unlikely, based on what is known today, as the plants under consideration in the United States are designed with newer technology and safety systems and are generally sited in locations where there are existing nuclear facilities and general public support.

Other issues, such as the availability of financing and the relative costs of alternative-fueled power plants, have been important factors in nuclear project development, as has been the continued availability of federal loan guarantees—the Obama administration has requested that Congress provide an additional $36 billion in nuclear loan guarantee authority in its budget for next fiscal year.

These issues, as well as lessons learned from Japan and the ongoing reviews in the United States, will continue to factor into decision-making on new nuclear projects, but they are unlikely to fundamentally alter the strong rationale favoring deployment of new nuclear plants in the years to come.

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CHINESE INVESTMENT IN GLOBAL NATURAL RESOURCES

BY YING WHITE

China has traditionally focused on attracting foreign direct investments to facilitate its domestic economic development. However, the past few years have witnessed a rapid increase in outbound direct investment from China. According to the Chinese Ministry of Commerce, Chinese outbound investments have grown, on average, 20-30 percent annually. A report by the U.S. Asia Society predicts that China's outbound investment will reach between $1.05 trillion and $2 trillion in assets worldwide by 2020.

In the United States, China has invested in 35 out of 50 states, with Texas, New York and Virginia getting the largest share of Chinese investments. The Chinese Ministry of Commerce also noted that Chinese investment in the United States grew by 81.4 percent to $1.39 billion in 2010. Other geographical regions that are expected to see increased inflows are the EU and Latin America. In the EU, Chinese investment reached $2.13 billion in 2010.

Natural resources, such as oil, gas, minerals and timber, have been the largest driver of outbound investment from China to the rest of the world. In the traditional oil, gas and mining areas, the focus of the projects has been on direct purchases of exploration and production rights from resource-rich countries. By contrast, in the renewable energy sector, Chinese companies have set up joint ventures with companies in host countries to develop wind and solar energy locally. A notable project is a Sino-Australian joint venture (to be called AusChina Energy Development) that will build $6 billion worth of wind and solar farms in Australia for both local consumption and export.

Generally, all outbound transactions are subject to Chinese government approval. This regime has three main components: (i) approval by the National Development and Reform Commission (NDRC), (ii) approval by the Ministry of Commerce (MOFCOM) and (iii) fulfillment of certain registration procedures required by the State Administration of Foreign Exchange (SAFE). If a Chinese company is state-owned, the transaction will also go through an appraisal process mandated by the State Assets Supervision and Administration Commission (SASAC). The idea is that state-owned companies are proposing to use state funds to make overseas investments, and the state must be satisfied with a credible appraisal of the proposed transaction.

NDRC, MOFCOM and SAFE each has its own set of rules and regulations concerning the approval process. Generally, the total size of a proposed transaction (i.e., the total value of an investment in foreign exchange to be made by the Chinese company) will determine whether an approval is required at the national

government level (generally more complicated and takes longer) or at the provincial level (generally faster and provides more flexibility).

The whole process can take from four to eight weeks or even longer, depending on factors sometimes beyond the control of the companies involved. The governmental approval process poses uncertainties and delays and can potentially increase transaction costs for both the international target and the Chinese investor. To mitigate these risks, when Chinese companies have offshore affiliates, they may choose to use these to effect the transactions. However, in many cases the offshore affiliates do not necessarily have sufficient funds or are unable to secure sufficient financing from offshore sources.

Typically, Chinese companies making outbound investments look to domestic Chinese banks as a major source of financing. Two of the largest lenders in this area are the China Development Bank and the Export and Import Bank of China. Their financing terms can introduce another layer of contingencies or conditions to the transaction agreements. On the other hand, the ability to secure a bank loan commitment generally enhances the approval process and reduces the uncertainties surrounding governmental approvals.

Finally, in many Chinese outbound transactions, governing law and enforceability of contracts become a major issue of concern for both the international target and the Chinese investors. The Chinese investors (and often their banks) tend to favor Chinese law and arbitration in China, while the international parties feel uncertain about the Chinese legal system. Even if the parties agree on a third-country law and jurisdiction to govern their contractual relationships, the international parties are often concerned about enforcing a foreign judgment against a Chinese company, especially where most of the assets of a Chinese company are in China.

For example, there is no mutual recognition and enforcement of foreign judgments between the United States and China. However, China is a member of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Therefore, an obvious work-around would be for the parties to submit to arbitration for dispute resolution purposes.

Projects relating to oil, gas, minerals and other resources will likely continue to be the largest source of outbound investment from China to the rest of the world for the foreseeable future. There may be lots of opportunities for U.S.-based energy businesses to take advantage of this.

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AKIN GUMP IN THE NEWS...

RENEWABLE ENERGY NEWS

TWO AKIN GUMP ATTORNEYS NAMED "TOP 25 CLEAN TECH LAWYERS"

Akin Gump partners **Dino Barajas** and **Elliot Hinds** were recently profiled in the *Daily Journal*, a California-based legal news provider that covers a broad range legal topics and information. Both lawyer profiles offered an inside look at their practices, their most significant recent matters and their backgrounds, while providing unique, personal perspectives from both Mr. Barajas and Mr. Hinds about what has made their practices successful and what makes the practice of law both challenging and rewarding for each.

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Dino E. Barajas focuses his practice on domestic and international project development and finance, including renewable energy, with particular emphasis on Latin American infrastructure projects, debt financings and mergers and acquisitions. Dino regularly represents lenders, investors and developers in the energy and power sector. He has worked on transactions in Argentina, Brazil, Chile, Colombia, Costa Rica, El Salvador, Guam, Guatemala, Honduras, Mexico, Nicaragua, Peru, Trinidad and Tobago, the United States, Yemen and elsewhere.

Elliot Hinds
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Elliot Hinds focuses his practice on corporate, energy and renewable energy matters. He represents a wide variety of businesses and public institutions in the important milestones—debt financing, mergers and acquisitions, joint ventures, corporate structuring and strategic commercial contracting—that occur in their development and lifecycles. He has extensive energy experience, having structured transactions to develop, finance, purchase and sell renewable (including wind, geothermal, solar and biomass), natural gas, cogeneration and coal-fired electric power projects; LNG and bioethanol facilities; and transportation projects.

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The Fukushima Daiichi Nuclear Accident (p.7)

Chinese Investment in Global Natural Resources (p.9)

Akin Gump Strauss Hauer & Feld LLP is a global law firm and a leading adviser to energy companies. We provide a full range of legal services, including corporate transactions, project finance and development, and dispute and policy counsel. Our lawyers have represented every segment of the energy industry on issues ranging from energy policy to tax questions to environmental and land use challenges.

Founded in Texas, Akin Gump has decades of experience counseling energy clients, including public and private companies, financial institutions, private equity firms and sovereign states working across the energy value chain from independent exploration and production activity to renewable energy investment.

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