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California Looks Across the Border To Develop Renewable Energy

Baja California Offers Optimal Conditions for Building Wind Farms

By Fiona Smith
Daily Journal Staff Writer

Just south of the border in Baja Mexico, winds coming off the Pacific Ocean hit the dry desert air, sending strong gusts over the desolate landscape. In other words, it's the perfect place for a wind farm.

With many of California's prime wind generating spots already taken, developers on this side of the border are working to tap into the vast unclaimed resource practically in the state's backyard.

"We call it the Saudi Arabia of wind," said Michael Folloni, manager with wind project developer Asociados Panamericanos, based in Oakland. "This wind resource is closer to San Diego than Palm Springs is to L.A."

"It's a good way of getting California less expensive renewable energy," he added. "And it helps both sides of the border."

Projects in Baja aren't without their challenges. Developers can't access any U.S. federal or state incentives, the land lease process can be more complicated and there is more of a need to build expensive transmission infrastructure.

'Permitting an energy project in Mexico is more streamlined than in California because you don't have the web of agencies to navigate, but there are no shortcuts in terms of meeting the applicable Mexican federal and state environmental regulations.'

DINO BARAJAS

PARTNER, AKIN GUMP STRAUSS HAUER & FELD

But developers said the upside is huge. Wind power from Baja could help California utilities meet the state's renewable energy mandates, the region is already plugged into California's transmission grid, the per-



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Dino Barajas, a Los Angeles-based partner at Akin Gump Strauss Hauer & Feld, is advising Gas Natural Fenosa on its proposed wind project.

mitting process is easier and the Mexican government provides good tax breaks to developers.

A recent California Energy Commission report found that Baja California can produce a staggering 8,000 megawatts of wind power or more, enough to power 8 million homes. By comparison, all of California's active wind farms generate 3,100 megawatts of power for 3.1 million homes.

The wind in Baja could go far in feeding the state's voracious energy appetite as well as toward meeting California's requirement that utilities get 33 percent of their power from sources such as solar, wind and geothermal by 2020. It's a huge number when you consider that California has 69,000 megawatts worth of power plants. Utilities have to more than double their current green energy sources to meet the goal.

To help meet that need, Folloni's com-

pany is working to develop an estimated \$2 billion, 1,000 megawatt wind farm about 80 miles south of the border on land owned by the indigenous Pai Pai people. The project has the added expense of building a transmission line up to the California border. But the wind blows so well that each turbine will produce up to twice as much power as it would on a typical California wind farm, Folloni said.

Tax breaks and other incentives also balance out. The project doesn't qualify for grants and tax credits offered to U.S. renewable projects, but Mexico wouldn't levy property or sales taxes and provides other tax benefits that make up for it, he said.

Just a few miles south of California in a desert area called La Rumorosa, San Diego-based Sempra Generation is planning a 1,000 megawatt wind farm. It is expected to break ground on the first 125 megawatt phase next year.

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Another San Diego project developer, Cannon Power Group, as well as Spanish company Gas Natural Fenosa are also each planning 1,000 megawatt wind farms in the same area.

The projects are being built mostly on ejidos, or communally-owned land. Developers hammer out lease deals with those local communities, which can be complicated affairs partly because it's hard to know who the local decision-makers are, said Dino Barajas, a Los Angeles-based partner at Akin Gump Strauss Hauer & Feld who is advising Gas Natural Fenosa on its proposed wind project.

The permitting process moves faster in Mexico, but there are still many challenges, said Michael Toke, Cannon's former general counsel and now its CEO.

"You're dealing with a totally different legal regime that's not mature like it is in California," Toke said. Squaring away all the land titles and insurance in order to seek project financing can be more difficult, he said.

The not-in-my-backyard resistance that is common in California isn't an issue in Baja, added John Prock, who directs Can-

non's activities in Mexico.

"Once we get our permits, unlike in the U.S., it won't be followed by thousands of lawsuits that delay projects for five to 10 years," Prock said.

The physical projects will undergo environmental review under Mexican law rather than California's more stringent environmental law.

"Permitting an energy project in Mexico is more streamlined than in California because you don't have the web of agencies to navigate, but there are no shortcuts in terms of meeting the applicable Mexican federal and state environmental regulations," Barajas said. "Environmental regulations in Mexico are currently not as stringent as in the United States but with the global evolving environmental consciousness, they are quickly reaching parity."

However, the cross-border transmission necessary to ship the power will fall under U.S. environmental law. It's unclear exactly how much environmental scrutiny California will eventually put on these projects.

There is a clear benefit to having the state tap into nearby renewable sources,

said Steven Weissman, associate director for the Center for Law, Energy, and the Environment at the UC Berkeley School of Law.

Under the state's renewable energy mandate, utilities can partially meet the requirements by buying credits from far-away renewable power producers whose actual power they do not use. As a result, the actual energy consumed will come from fossil fuel, he said.

"You can see why some potential sins are being forgiven, at least for out-of-country facilities, if they deliver their power into the California grid," Weissman said. "You're not only getting the greenness, you're getting the kilowatt hours."

Developers such as Asociados Panamericanos and Cannon Power Group say they plan to have their entire projects comply with California environmental laws anyway in order to facilitate the sale of power to California.

"We got into this because we come from an environmentalists' background and we're conscientious about what we're trying to do here," Folloni of Asociados Panamericanos said.

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