

Energy & Natural Resources - Argentina

Major mining projects remain unaffected by Glaciers Law

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Since the enactment of the Glaciers Law in 2010,⁽¹⁾ natural resources companies in Argentina have been waiting with interest for the results of the national inventory of glaciers and the environmental audits of priority areas (ie, those areas in which it was deemed likely that prohibited activities were being carried out). The inventory and audits will shed more light on the scope of application of the law, thus enabling resources companies to know which areas exactly are protected by the legislation.

The law provides for the preparation of an inventory of all existing glaciers in Argentina, which must first be executed in areas in which it is suspected that prohibited activities may be taking place. In turn, the environmental audits must be performed in areas where prohibited activities were being carried out at the time of the law's enactment.

The area primarily affected by the legislation is the Andes region, along the Chilean border. San Juan Province, whose economy depends heavily on mining activities, was the first to start the audits. The first phase comprised audits of the cross-border Pascua Lama project and the Veladero project, both run by Canadian-based mining company Barrick Gold.

According to the preliminary findings - which were carried out by San Juan Province, not the federal administrative body charged with preparing the inventory - the work carried out in both projects has been deemed to have no impact on local glaciers. Pascua Lama is the world's largest cross-border mining project, involving the governments of Argentina and Chile and investments of over \$8 billion. Provincial authorities have confirmed that a second phase of audits will cover the Los Azules and Proyecto Túnel del Paso Agua Negra projects.⁽²⁾

San Juan became the first province to present preliminary findings, although the implementation of the law in the province was blocked in 2011 by injunctions filed by Barrick Gold and the provincial government in relation to the Pascua Lama project. In July 2012 the Supreme Court reversed the injunctions on the basis that they froze the mechanisms foreseen by the law, aiming to put an end to the state of uncertainty as to the scope of application of the law.

The San Juan audit attracted some criticism from environmental organisations, which claim that the environmental impact statements filed for the Veladero and Pascua Lama projects indicated that their activities would affect glaciers and that it seemed implausible that the projects were actually having no impact.

The law was passed on September 30 2010 and established a set of minimum standards for the protection of glaciers⁽³⁾ and periglacial⁽⁴⁾ areas in Argentina. The implementation of the law is crucial to determining the future of the most important mining and oil and gas projects in the country.

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Endnotes

(1) Law 26,639, published in the *Official Gazette* on October 28 2010.

(2) See www.sanjuan.gov.ar/Default.aspx?nId=8892&rId=0.

(3) Article 2 of the law defines 'glaciers' as:

"any perennial mass of ice, whether stable or flowing slowly, with or without interstitial water, formed by the recrystallization of snow, located in several ecosystems, irrespective of their shape, dimension and state of preservation.

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The detritic rocky material and the internal and superficial watercourses are deemed part of each glacier."

(4) Article 2 of the law states that:

"[the] periglacial environment in the high mountain area is defined as the area with frozen soils acting as regulator of the water resource. In the average and low mountain area, it refers to the area acting as regulator of water resources with ice-saturated soils."

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