



Government Relations & Public Policy

INDIAN LAW

Forging successful business relationships between energy companies and Indian tribes

Van Ness Feldman has been representing Indian tribes, Alaska Native Corporations (ANCs) and private sector companies doing business with tribes and ANCs for 30 years. The firm:

- Assists tribes and energy companies develop successful business relationships
- Assists ANCs on land conveyance and other issues arising under the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act
- Serves as Washington counsel to tribes and ANCs
- Negotiates rights-of-ways, leases and other permits for energy-related activity on reservations
- Assists tribal/ANC firms and private sector companies use the special 8(a) rights Congress has provided to tribes and ANCs
- Assists tribes and intertribal organizations assert the special employment rights Congress has provided to Indians and Alaska Natives

Energy Development on Indian Lands

Van Ness Feldman has helped our energy sector and tribal clients create beneficial business relationships based on mutual respect and a full understanding of each party's needs, rights, and responsibilities.

Tribes are increasingly looking to be active partners with the companies engaged in oil and gas production, electricity generation and transmission (including hydroelectric and other renewable energy), natural gas and oil pipelines, and other energy development activity on their reservations. Because of the firm's extensive Indian law and energy law expertise and experience, it has been able to assist our tribal and our energy company clients to negotiate business partnerships that are profitable for both parties and that insure long-term working relationships.

Once agreements are reached, the firm is able to assist energy companies understand and work with the unique aspects of doing business on reservations, such as the multiple levels of taxation, complying with the tribe's Tribal Employment Rights (TERO) ordinance, and tribal sovereign immunity. Whether representing the tribe or the energy company, our focus is on helping our clients get deals done and make business happen.

Representative Matters

- On behalf of a tribal energy company, the firm drafted and lobbied for the Indian title to the 1992 Energy Policy Act, the first legislation to create significant Indian programs within the Department of Energy.
- The firm represents two large energy companies that are working with tribes to jointly develop wind energy and other energy projects on their reservations.
- The firm helped to create the Native American Bank, a Federally chartered financial institution owned by 20 tribes and ANCs that focuses on providing loans and other banking services to Indian country.
- The firm led the lobbying effort for legislation to provide tribes and ANCs with special rights (such as the right to large sole source contracts) under the SBA 8(a) program, helped to draft the regulations implementing those rights, and has assisted numerous tribes and ANCS to obtain 8(a) certification and to use those rights to promote their economic betterment.
- The firm has also been at the forefront in developing creative approaches for using those SBA 8(a) rights. For example, the firm brought together separate information technology firms owned by eight tribes, three Alaska Native Corporations and one Native Hawaiian Organization into a multi-tribal 8(a) certified company that has been awarded over \$90 million in DOD contracts and that has created almost 300 IT jobs in remote communities.
- The firm helped create the Tribal Employment Rights Office (TERO) program and has served as general counsel to that program since its founding 30 years ago.
- The firm is presently working with an intertribal organization to promote Indian employment and the development of Indian businesses in road and other construction areas.
- The firm helps tribes to assert their water rights under the Winters doctrine.
- The firm assisted a tribal government in successfully negotiating with a major natural gas pipeline company seeking a renewal of its right of way for several hundred miles of gas pipeline network on the tribe's reservation.
- The firm successfully litigated before the Court of Federal Claims for AeroCare Medical Services, an emergency ambulance service on the Navajo Reservation, in a contract dispute with the reservation's health provider. Arguing that the health provider's procurement process was outside of the Federal Acquisition Regulations and had no other statutory base, the firm secured a summary judgment motion with the Department of Justice that was very favorable to our client.

Seminar: How To Do Successful Business in Indian Country

In addition to assisting our clients on specific projects, we offer clients a one-day seminar on “*How To Do Successful Business in Indian Country*,” which addresses the legal, political, cultural, and other issues involved in entering into business relationships with Indian tribes.