



Environment, Natural Resources, & Public Lands

WATER REGULATION

Van Ness Feldman has extensive, multidisciplinary experience with the overlapping statutes that govern the supply and quality of water for municipal, industrial or agricultural use, as well as the treatment and management of wastewater. Drawing on more than twenty-five years of experience, the firm serves as counsel to municipalities, irrigation districts, trade associations, states, energy project developers, industrial facilities, public power entities, lending institutions and investors, and Native American organizations on complex water-related matters of all kinds.

Regulatory and Compliance Counseling

As veterans of the Environmental Protection Agency, members of our practice were directly responsible for the development of agency regulations. This experience allows Van Ness Feldman to provide our clients with a first-hand understanding of the substance and process behind EPA rulemakings.

Van Ness Feldman regularly works with clients to ensure that operations are in compliance with applicable requirements, to obtain necessary permits and approvals from the Environmental Protection Agency, to identify potential problems, and apply creative solutions to existing enforcement concerns.

The firm also helps clients participate in shaping emerging regulations — representing client interests throughout the process from the critical early stages before a rule is proposed publicly, through development of comments and testimony for public hearings, to final promulgation.

Facility Permitting and Siting

Van Ness Feldman assists with environmental permitting and siting for projects that include industrial facilities, hazardous waste treatment and disposal facilities, natural resource extraction projects, transportation projects, energy generation projects, and hydroelectric projects. Specifically, the firm regularly helps clients:

- Prepare and obtain necessary pre-construction and operation permits.
- Manage the consultation process under statutes such as NEPA, the Endangered Species Act, and the Fish and Wildlife Coordination Act.
- Identify strategies for overcoming objections to the issuance of permits raised by federal or state agencies, or by citizen groups.
- Develop comprehensive approaches to avoid lengthy permit reviews.

- Identify, interpret, and resolve relevant federal land use issues, including requirements relating to wetlands and endangered species.

Water Legislation

Van Ness Feldman attorneys have played crucial roles in the development of significant water-related legislation, including the most recent efforts to reauthorize the Clean Water Act and to implement legislation authorizing and funding water resource development projects. In addition, the firm has been able to use this knowledge to take a leadership role in the creation and administration of coalitions on major water-related national issues such as wetlands, endangered species, and risk assessment. The firm also regularly assists clients with the development and execution of a comprehensive legislative strategy to achieve specific business and policy objectives.

Litigation and Enforcement Proceedings

Members of the practice, including the former Director of EPA's Water Enforcement Division, are experienced in representing clients in matters before federal courts and in enforcement actions before federal agencies. A hallmark of these representations is our firm's efforts to avoid litigation through aggressive negotiations. Members of the practice have the specialized experience needed to work with federal agencies in order to satisfactorily resolve non-compliance issues more quickly and less expensively than would normally be the case if litigation were pursued. However, in those cases where judicial review of agency action or defense of agency enforcement is required, Van Ness Feldman's team is well-prepared to litigate on behalf of our clients to successfully resolve conflicts.

Water Rights

Van Ness Feldman has been at the forefront of complex water rights issues for more than two decades. We recognize the importance of access to a reliable water supply for projects involving energy, real estate, or municipal development, and have successfully protected clients' rights by negotiating favorable contracts, securing project funding, and litigating complex — and frequently politically charged — water rights disputes.