



Public Lands & Natural Resources

PROJECT DEVELOPMENT & PERMITTING

Wetlands Permitting Practice

As the scope and complexity of federal wetlands permitting requirements under Section 404 of the Clean Water Act have increased in recent years, developers, business clients, and local governments have turned to Van Ness Feldman for sound legal and policy judgment. The firm provides clients with innovative, achievable strategies that effectively address legal and regulatory concerns and clear the way for important projects.

The attorneys of Van Ness Feldman have the technical expertise to work with project consultants and the federal agencies on the ground to analyze at the outset whether the wetlands on the client's property are in fact "isolated" and are therefore not subject to federal jurisdiction. Firm attorneys help clients and consultants to manage and expedite the federal permitting process and to obtain the regulatory approvals necessary for important projects. In addition, Van Ness Feldman helps clients identify potential regulatory and legal obstacles to projects at the early stages and find creative ways to address them.

A Comprehensive Capability

Since the 1970s, various political interests have used the ambiguities of the Clean Water Act to both expand the scope and tighten the regulatory regime of the Section 404 federal wetlands permitting program. Van Ness Feldman is helping its clients anticipate and respond to these changes at all levels — including legislative, regulatory and judicial work in Washington, as well as counseling clients across the nation on the best means of moving forward with their projects. Van Ness Feldman offers a comprehensive capability in the area of wetlands law and policy, including:

- Analyzing and providing counsel to clients, including advocacy before the regulatory agencies, on the question of federal jurisdiction.
- Providing early identification of regulatory and legal obstacles to important projects and finding innovative ways to address them.
- Successfully resolving wetlands disputes primarily through aggressive, proactive negotiation and, when necessary, through litigation.
- Helping clients participate proactively in the legislative and policy processes that will shape future wetlands regulation.
- Representing clients in appearances before government agencies, the courts, and Congress.

The firm works closely with developers, municipalities and other project sponsors proactively to manage and expedite the federal permitting process and to obtain the regulatory approvals necessary for important projects.

Navigating the Regulatory Process

Van Ness Feldman attorneys combine a thorough technical understanding of the wetlands regulatory program and an ability to work successfully with government agencies, including the Corps of Engineers (Corps) and the Environmental Protection Agency (EPA). The firm's representation has allowed clients to proceed with a diverse set of projects, including the siting and building of:

- Large manufacturing plants.
- Natural gas pipelines.
- Office parks.
- Shopping malls.

Van Ness Feldman attorneys also participate in innovative policy initiatives as well as regulatory decision making at the program level.

For example, on behalf of a client, the firm worked to ensure that reauthorized nationwide permits allow continued streamlined permitting of projects important to county water agencies and electric transmission corporations. Van Ness Feldman is also able to work with Corps district and division offices and the EPA to achieve workable regional general permits for clients.

Positioned in the Public Policy Arena

A hallmark of the firm, Van Ness Feldman's legislative practice has played a leadership role in representing industry interests in the congressional debate over the federal wetlands permitting program. The firm serves as counsel to the National Wetlands Coalition, a broad-based group of companies, municipalities, and trade associations leading the effort for federal legislation to reform the Section 404 wetlands permitting program. The firm is also actively engaged with the Administration and Congress in the effort to achieve implementation of the SWANCC decision.

Litigation and Dispute Resolution

The firm's attorneys take pride in successfully positioning clients to enable them to achieve their objectives without resorting to litigation. Yet when circumstances warrant, the firm forcefully and effectively advocates client interests in the courts.