



## Public Lands & Natural Resources

### NATIONAL HISTORIC LIGHTHOUSE PRESERVATION

The National Historic Lighthouse Preservation Act (NHLPA) of 2000 provides a mechanism for the disposal of federally-owned historic light stations at no cost to federal agencies, tribes, state and local governments, nonprofit corporations, educational agencies, and community development organizations. The acquisition, restoration, and preservation of an historic light station can enhance a community's educational, park, cultural, and recreational values, as well as bring increased tourism revenues.

Van Ness Feldman is able to assist our clients in navigating the entire NHLPA process from beginning to end, including:

- Organizing and incorporating the acquiring entity;
- Submitting an expression of interest;
- Developing teaming arrangements with cooperative organizations, if desirable;
- Developing plans for acquisition, restoration, and preservation;
- Preparing a comprehensive, approvable application;
- Analyzing and assuring appropriate environmental assessment, mitigation, and compliance;
- Finalizing permitting and transfer.

Van Ness Feldman brings to bear a wealth of experience working with and within the agencies involved in the transfer of surplus historic light stations to new owners, and our firm maintains strong working relationships with key personnel at each of these agencies.

### *Effective Working Relationships With Key Agencies*

On behalf of our clients, we have worked on a wide variety of management, concession, preservation, and land exchange projects with the National Park Service (NPS), the agency responsible for reviewing and evaluating light station transfer applications and for recommending a transferee to the General Services Administration (GSA). An understanding of the workings of the NPS can be invaluable to any effort to obtain the NPS's favorable review of an NHLPA application and recommendation to the GSA.

Van Ness Feldman prides itself on its ability to build and foster partnerships between the private sector and the NPS and the Department of the Interior. Our attorneys are highly experienced in matters relating to the many federal laws, regulations, and policies affecting the NPS and its relationship with private entities.

The firm has more than 25 years of experience working with the NPS on behalf of clients who do or are interested in operating visitor services under concession contracts or permits or commercial use authorizations, providing these businesses with a range of services — including strategic advice when responding to new prospectuses, contract negotiation, possessory interest determinations and appraisals, sales or assignments of contracts/permits, litigation, and legislative and administrative advocacy. We also have achieved numerous successful land exchanges on behalf of our clients, many of which have involved the NPS.

Through prior government service as well as representation of clients at the firm, our attorneys are intimately familiar with the workings of the Department of the Interior and have broad experience with the GSA and the U.S. Coast Guard. Furthermore, we have a solid background working with the National Historic Preservation Act of 1966 (NHPA) and with State Historic Preservation Officers. This high level of expertise puts us in a prime position to assist our clients through every stage of the process associated with obtaining a lighthouse.

### *Assessment of Environmental Impacts*

An approvable NHLPA application must include an applicant's assessment of the probable or foreseeable environmental effects of the proposed program of use and preservation at the historic light to comply with the National Environmental Policy Act (NEPA). Members of the firm have extensive experience in developing, planning, overseeing, administering, managing, and litigating federal compliance with NEPA. On behalf of our clients, we are able to successfully analyze, structure, develop, and prepare objective and sustainable environmental documentation and compliance materials to support applications for transfer of surplus light stations, and to work with the appropriate agencies to expedite such transfers on time and on budget.

An NHLPA application also must specifically address whether the activities proposed under the application will have a direct or indirect effect on natural resources, land uses, or water uses in the coastal zone, and, if so, how the applicant will comply with the State's coastal zone policies. This requirement derives from the Coastal Zone Management Act of 1972 (CZMA), which established a unique federal-state partnership to ensure the protection, restoration, and responsible development of the nation's coastal communities and resources. The firm also has significant experience representing clients in navigating the requirements of the CZMA, including developing appropriate mitigation to address foreseeable impacts and ensure consistency with state coastal management programs, and obtaining favorable consistency certifications from the states.

### *Preservation and Restoration*

A successful application also requires a thorough understanding of the statutes designed to ensure the protection, preservation, and restoration of historic sites. The firm has a wealth of experience with the NHPA, including: listed, historically eligible, and ineligible sites; procedures for documenting unintentional discoveries; programmatic agreements with State Historic Preservation Officers; abandoned cemeteries and Native American Grave Protection Act compliance; administrative appeals and NEPA litigation issues; and restoration planning, mitigation, and site selection.

### *Representative Projects*

- **Cuckolds Island Fog Signal/Light Station** ( Southport Island/Boothbay Harbor, Maine). Van Ness Feldman helped a community of interested citizens organize and incorporate a new operating entity and successfully managed the transfer ownership of the Cuckolds light station from the Federal government to that entity. The project took more than two years and involved comprehensive work

with federal and local stakeholders (including a dozen other interested community groups) to develop and implement the historic preservation plan, conduct and document environmental analyses and mitigation efforts, and effect the title transfer transaction. In summer 2008, the Cuckolds will begin reconstruction of the Keeper's House, Boat House, and Oil House. In future years, the Cuckolds will be home to a seasonal youth camp, nautical training, and overnight visits provisioned by a historic local inn.

- **Pemaquid Point Light Station** (Town of Bristol, Maine). Van Ness Feldman is helping the Town of Bristol and other community-based groups to acquire legal title to Lighthouse Tower of the historic Pemaquid Point Light Station. Although the Keeper's House and surrounding grounds were transferred to the Town prior to World War II, the remarkable Light Station Tower (among the most photographed buildings in Maine) has been retained by the Federal government for decades. VNF is helping the Town reunite the Light with the adjoining park, expand the Town's museum and educational spaces, and return the property to recreate its pre-War role as a non-automated, light station and active aid to navigation. The Pemaquid Point Light Station Tower is uniquely accessible by land (only 20 of Maine's 62 historic lights can be visited by land) and is featured on the 2004 Maine State Quarter.
- **Squirrel Point Light on the Kennebec River** (Arrowsic, Maine). Van Ness Feldman is assisting the Chewonki Foundation, Bowdoin College, Friends of Squirrel Point and other community partners in rescuing, preserving, and restoring the historic light station through a 15-year license to serve as custodians of this historic lighthouse. The Chewonki Foundation will use the Light Station for community-based educational and environmental programs. According to the Coast Guard, the legal title to Squirrel Point cannot be transferred to a private entity under the National Historic Lighthouse Preservation Act until lead contamination, caused by storage of old batteries on Squirrel Point's grounds, is fully remediated. The Chewonki Foundation is highly regarded and widely recognized for its leadership in environmental education and conservation. Its camps have been nurturing ground for many famous campers, including Roger Tory Peterson, who was a camper and counselor at Camp Chewonki before embarking on his world-renowned career as American naturalist, ornithologist, artist, and educator, and one of the founding inspirations for the 20th century environmental movement.