



## Energy Regulation & Compliance

### NUCLEAR ENERGY

While there is some sense of uncertainty about the direction of nuclear power in the U.S., energy demand, climate change, and the need to maintain and create jobs will continue to drive the nuclear renaissance. A great deal of attention will likely be given to familiar-and emerging-nuclear issues such as permitting on-site storage, nuclear fuel reprocessing, modular and scalable generating technology, and the role or treatment of nuclear energy in the nation's climate change program.

#### *Our Services*

Van Ness Feldman offers an interdisciplinary range of services to nuclear industry participants, including representing electric utilities with nuclear generation assets, contractors at nuclear research and material management sites, and others.

Our core competencies relate to:

- Management and transportation of nuclear waste.
- Department of Energy (DOE) loan guarantees and nuclear programs.
- Federal nuclear energy legislation and policy.
- Nuclear fuel reprocessing.
- Licensing and decommissioning of nuclear facilities.

Our firm has a history of involvement in nearly all aspects of energy and environmental regulation and policy, and we are known for our ability to collaborate effectively with our clients' internal and external technical advisors to provide superior service.

The firm's capabilities include:

- Providing strategic guidance on Nuclear Regulatory Commission (NRC) licensing and decommissioning matters.
- Counseling on waste management and environmental remediation.
- Negotiating rail transportation agreements for nuclear materials.
- Advocating both discrete matters and broad nuclear policy initiatives before Congress and the Administration, such as Price-Anderson Act issues, foreign ownership of entities and information in the nuclear research and supply chain, and DOE funding opportunities.
- Obtaining federal incentives for nuclear projects, such as DOE loan guarantees, tax credits, and research grants.
- Representing parties in litigation and arbitration proceedings.

- Interpreting the applicability of Surface Transportation Board (STB), Federal Energy Regulatory Commission (FERC), DOE and Environmental Protection Agency (EPA) regulations and policies.

In addition, as a zero-emissions energy source there are a variety of opinions of how nuclear energy should be treated in a U.S. greenhouse gas emissions regulatory regime. Our climate change practice can assist those in the nuclear industry to formulate their strategy in these discussions. Our experience:

### *Advocacy and Counsel on Nuclear Issues*

Many Washington firms offer access to policymakers. Our approach goes beyond access and blends strategic insights, longstanding and trusting relationships, and substantive knowledge of the issues. Our professionals' experience with nuclear policy issues and counseling includes:

- Mike McBride advised a major European nuclear company extensively on U.S. law affecting the employment of persons subject to U.S. jurisdiction on nuclear projects in foreign countries.
- Lisa Epifani served as the DOE Assistant Secretary of Congressional and Intergovernmental Affairs, Special Assistant to the President on the National Economic Council, and Counsel to the Senate Energy and Natural Resources Committee under then-Chairman Domenici. She has worked on a variety of nuclear issues such as: Yucca Mountain; the Global Nuclear Energy Partnership; Nuclear Power 2010; stand-by risk insurance; reprocessing legislative efforts; the amended standard contract; license applications and extensions; enrichment; uranium inventory; and international Section 123 agreements.
- Bob Nordhaus, as General Counsel of the Department of Energy, was deeply involved in Nuclear Waste Policy Act and Price-Anderson Act issues.
- Mike McBride has been involved with the Price-Anderson Act at several points in over 30 years of practice in nuclear matters, including expert testimony on Price-Anderson for Edison Electric Institute, and Mike Swiger is familiar with the Price-Anderson Act from private practice.
- Rick Agnew of our Seattle office and Shelley Fidler of our Washington office worked on the Price-Anderson Act during their service in the Congress, and Shelley worked on these issues during her service at the President's Council on Environmental Quality.

### *Nuclear Facility Licensing and Decommissioning*

We provide strategic advice at all phases of the NRC licensing or decommissioning process, working seamlessly with outside consultants. If matters dictate, we are also prepared to resolve disputes through negotiation, arbitration or litigation. Mike McBride has handled nuclear licensing matters throughout his career, including defending the first new NRC license in recent years, for a uranium enrichment plant in New Mexico.

### *Environmental Remediation*

Among other experienced solid and hazardous waste practitioners, our environmental team includes Marlys Palumbo, a former chief legal officer for a FORTUNE 100 waste management company. They are fully conversant in all environmental statutes relating to toxic waste management, property remediation (including liability issues) and energy project development and licensing. We are frequently engaged by environmental consulting and engineering firms for strategic counsel on permitting and licensing matters, compliance

reviews and certifications, assessments of obligations to disclose environmental liabilities, and the like.

*Rail Transportation of Nuclear Waste*

The nuclear energy sector relies heavily on rail transportation. Our firm is known for its advocacy on behalf of rail shippers, and our lead partner on these matters, Mike McBride, represents the investor-owned electric utility industry before the Surface Transportation Board on a range of issues including liability for transportation of hazardous waste. Mike also offers comprehensive services with respect to commercial rail transportation contracts (e.g., negotiations, STB proceedings, arbitrations, litigation, etc.), counseling generally on railroad transportation issues (including those arising under the Price-Anderson Act), and advice with respect to the development of new rail lines to serve large industrial and energy customers. A few notable examples of Mike's recent work include testimony he provided before the STB itself on hazardous waste transport, including discussion of Price-Anderson (which the railroads cited as the sort of legislative regime they seek to limit their liability for hazardous waste shipments), testimony before the STB's Rail Energy Transportation Advisory Committee, and a 2008 article in *Electricity Journal* on the law with respect to rail transport of hazardous (including radioactive) waste.