

PORTS, MARINE TERMINALS, & INDUSTRIAL FACILITIES



INDUSTRY CONTACTS

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Van Ness Feldman has long-standing experience and deep familiarity with the development and operational issues facing port districts, marine terminals, and their commercial and industrial facilities. Our attorneys and policy professionals represent clients in substantial matters involving regulatory compliance and permitting, leasing and property acquisition/disposition, government relations, utility infrastructure planning, hazardous waste and contaminated sites, climate change, and administrative and judicial litigation related to all aspects of the development and use of these types of property. In addition, the firm is highly skilled at drafting and negotiating public contracts with other agencies, businesses, vendors, and contractors ranging from simple business arrangements to complex, multi-year operation and maintenance agreements.

Strategic advice is informed by a foundational understanding of authorizing legislation, laws governing open public meetings and public records, and constraints of constitutional provisions on activities. Van Ness Feldman provides clear and concise counsel guided by decades of experience representing a variety of public entities. The firm is adept at balancing sometimes divergent interests in a fiscally-responsible manner while protecting the vital long-term interests of industry clients.

We actively participate in port and marine terminal industry organizations, which equips our attorneys and policy professionals with a better understanding of issues facing these clients and their operations, and allows us to identify trends and opportunities that could impact the industry's business and legal interests.

PERMITTING & REGULATORY COMPLIANCE

Van Ness Feldman's attorneys, land use planners, and policy professionals forge innovative, reasoned solutions to help port clients effectively and efficiently pursue large complex development projects. The firm has extensive permitting experience under all local, state, and federal authorities and has successfully defended clients' permits and approvals in agency appeals and in court.

Areas of Focus:

- Complete assessment of regulatory compliance as part of major property investment, development, or acquisition
- Local and state permit acquisition and approval, including subdivision, use permits, variances, and shoreline permitting
- Rezoning, use permits, and variances
- Code and comprehensive plan amendments
- National Environmental Policy Act (NEPA) and applicable state environmental reviews associated with regulatory permits
- Negotiation of development agreements and developer extension agreements
- Endangered Species Act (ESA) compliance, including critical habitat designation and incidental take

permits

- Clean Air Act permits and compliance
- Water and wetlands permits, section 401 (water quality) and 404 (dredge/fill) of the Clean Water Act (CWA), and National Pollutant Discharge Elimination System (NPDES) permits
- Project management and coordination, including consultant supervision and contract negotiation

ACQUISITION & LEASING OF INDUSTRIAL / COMMERCIAL PROPERTY

In real estate transactions, Van Ness Feldman brings sophistication and efficiency to complex industrial and commercial leasing, property acquisition/ disposition, and development transactions. The team carefully spots important issues and risks facing port clients, while negotiating practical and realistic terms.

Areas of Focus:

- Industrial, warehouse, distribution center, and ground leasing
- Site identification, due diligence and evaluation including analysis and risk assessment of land use regulations, title history, water rights, environmental liability
- Reciprocal easement agreements
- Combining multiple funding sources for complex projects
- Feasibility studies

GOVERNMENT RELATIONS

Van Ness Feldman has substantial expertise providing strategic policy guidance and legislative advocacy to port clients. The firm helps clients understand the impact of existing and proposed environmental, energy, and transportation policies and guides clients through the most complicated and contentious policy debates.

Areas of Focus:

- Transportation and rail
- Clean Air Act and global climate change
- Federal public land law
- Endangered Species Act
- Renewable energy and energy efficiency initiatives.
- LNG facility siting
- Natural gas policy and the pipeline certificate process

HAZARDOUS WASTE

Van Ness Feldman has handled high- profile and ground-breaking disputes under most of the nation's principal environmental laws, and has decades of experience counseling industrial and manufacturing operations, in significant regulatory and environmental liability issues. The firm has specific experience with regulatory- and insurance-related matters associated with storage, transportation, and transfer of hazardous materials, including oil and petroleum products, at industrial facilities and port terminals.

Areas of Focus:

- Federal “Superfund” Law (CERCLA)
- Resource Conservation and Recovery Act (RCRA)
- Toxic Substances Control Act (TSCA)
- Washington State’s Model Toxics Control Act (MTCA)
- Clean Air Act, Clean Water Act
- Groundwater, surface water, and soil contamination
- Storage tank issues including tank construction, tank permitting and integrity testing, tank leak and emission compliance, and secondary containment requirements
- Site cleanups
- Oil Pollution Act (OPA)

CLIMATE CHANGE

Van Ness Feldman’s attorneys help port clients manage operations that are significantly affected by federal and state climate policy decisions and provide timely and accurate counsel on business risk analysis, decision making, and planning.

Areas of Focus:

- Advising clients on environmental review of climate change impacts associated with Port projects
- Advising clients on legal issues associated with adaptation on property vulnerable to climate change including issues associated with risk and disclosure to tenants
- Evaluating impact of existing and emerging climate change regulations
- Explore transformational business opportunities related to climate change and energy security, such as low carbon technologies, energy efficiency, green buildings, sustainability, and biofuels
- Secure financial incentives for development and deployment of climate-friendly technologies

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