

# HYDROGEN

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Van Ness Feldman's multi-disciplinary team of attorneys and public policy professionals advises clients in nearly every facet of the hydrogen industry. As the global economy transitions to a lower carbon future, the firm is at the forefront of advising clients on cutting-edge technologies and infrastructure development. We assist clients with legislation, funding, transactions and contracting, and permitting for low- and zero-emission energy resources. With nearly half a century of experience as a leader advising the energy sector, Van Ness Feldman has unparalleled capabilities and insights on the seismic shift underway in the energy transition.

## POLICY

Van Ness Feldman is a leader on hydrogen policy and regularly counsels clients regarding existing and proposed legislation, regulations and guidance affecting hydrogen-related projects. The firm founded and leads the [Clean Hydrogen Future Coalition](#), a powerful group of stakeholders from both industry and nongovernmental organizations that has successfully impacted new programs enacted in the Inflation Reduction Act and the Infrastructure Investment and Jobs Act. The firm was proud to serve as a strategic advisor to Senate leaders resulting in \$7 billion in hydrogen-related funding. Clients seek out VNF to represent them on the opportunities and challenges inherent in clean hydrogen projects, strategic coalitions, and government funding.

Other recent efforts include:

- Providing early advice on how hub funding and other project opportunities may be structured and assessing requirements that may be imposed on project partners under grant instruments;
- Advising on the federal (and in some cases, state) political environment to best position clients for a favorable award;
- Coordinating with project technical staff to ensure understanding of government review criteria and how program policy factors are considered as project design is finalized;
- Advising clients on strategies to influence legislation and regulation regarding interstate transportation of hydrogen; and
- Working under the Federal Power Act to provide recognition of hydrogen's unique role within the electricity sector.

## ENERGY MARKETS & TRANSACTIONS

The evolving hydrogen economy requires experience that is both broad and deep on energy transactions, commodities contracts, and the organization and operation of domestic energy markets. The firm has an extensive and multi-disciplinary transactional and regulatory practice that helps clients develop and implement strategies and tactics in the context of these intersecting energy transactions and markets. Our professionals specialize in myriad existing energy commodity markets, including wholesale and retail electricity markets, domestic natural and renewable gas markets, and renewable attributes and voluntary carbon markets, as well as interconnecting hydrogen resources with existing electric transmission networks.

We advise multi-nationals and domestic companies on how to structure agreements related to proposed hydrogen hubs in the United States, term sheets and syndicate agreements related to Department of

Energy funding, and power purchase agreements involving hydrogen electrolysis and related attributes. We have experts in tax policy, Environmental Protection Agency ("EPA") environmental regimes, interconnection requirements, and transmission incentives that are critical to ensure projects are viable, meet commercial requirements, and create shareholder value.

## INFRASTRUCTURE DEVELOPMENT

With President Biden's announcement of \$7 billion in Bipartisan Infrastructure Law funding to accelerate the domestic market for clean hydrogen, a major buildout of infrastructure will be required to produce, store, and transport hydrogen to its final destination. VNF's multi-disciplinary team has decades-long experience and expertise in the federal, state, and local permitting and environmental review that will be required to develop the infrastructure to produce, store, and transport hydrogen.

Our work spans the entire spectrum of required land use and environmental permits, including Clean Water Act discharge permits, Clean Air Act permits for stationary and mobile sources, other federal land use authorizations, and local zoning and building approvals. As part of these permitting processes, we work on behalf of clients with regulatory bodies to complete federal and state environmental review, as well as endangered species and tribal consultations.

VNF is currently assisting a utility to complete local and state permitting of a hydrogen pilot project, including water rights acquisition, wastewater discharge permitting, zoning, and construction permitting. This project involves development of new infrastructure to produce hydrogen as well as the refueling of existing electrical generating facilities with hydrogen as fuel. We are also helping numerous companies who own carbon-based energy assets repurpose, permit and fund their transition to hydrogen.

A significant amount of our permitting experiences has been on utility-scale renewable energy projects, which present similar challenges and opportunities as hydrogen infrastructure. Our team is currently working to obtain or defend federal, state, and local land use permits for new solar, wind, and hydroelectric generation facilities as well as facilities that produce renewable diesel, sustainable aviation fuel, liquefied natural gas marine fuels, and other low-carbon transportation fuels.

## FEDERAL GRANT & COOPERATIVE AGREEMENTS

The firm has significant, long-standing experience with grant and cooperative agreement programs and negotiations with various federal agencies including the Department of Energy ("DOE"), the EPA, and the Department of Agriculture. The Firm is advising clients on federal "flow down" requirements and other potential strings that are attached to government awards, such as Davis-Bacon Act, Buy American, the Byrd Anti-Lobbying statute, Justice40, and anti-discrimination requirements.

The firm has a long history of advising on joint federal and private sector collaborations such as those encouraged and funded through the DOE's hydrogen hub program. For example, the firm served as project counsel for the FutureGen Industrial Alliance ("FutureGen"), the nation's first carbon capture and storage project created as a public-private partnership between DOE and private sector members with interests in electric power generation. During FutureGen's multi-year development period, Van Ness Feldman was engaged as overall project counsel from the project's inception through the establishment of the private sector consortium, negotiating and managing the cooperative agreement with DOE, representing the project on all aspects of development and ownership, and providing legal counsel on a wide range of environmental regulatory matters.

## TRANSPORTATION & DISTRIBUTION

With decades of experience supporting the natural gas and oil industries, Van Ness Feldman provides comprehensive legal and regulatory services to pipeline companies. The firm is renowned for advising clients at every stage of the lifecycle of pipeline projects, including pre-development, project structuring, permitting, construction, operation, expansion, continuing regulatory compliance, and ongoing

transactional services. The firm has successfully represented natural gas pipeline companies seeking authorizations to construct hundreds of projects, including thousands of miles of pipeline facilities in the past decade, and remains on the forefront of policy and regulatory proceedings affecting the natural gas industry.

The firm leverages its robust natural gas pipeline and liquefied natural gas permitting experience to help clients navigate the uncertainty associated with emerging regulatory regimes and permitting requirements for hydrogen pipelines. This includes providing counsel on how blending hydrogen into natural gas pipelines will affect their regulation under the Natural Gas Act and advising on questions concerning regulation pipelines transporting unblended hydrogen.

The firm also advises local distribution companies on when and how to integrate hydrogen into their systems and is working with rail and trucking companies regarding transport of hazardous materials like hydrogen.

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