

NATIVE AFFAIRS



PRACTICE CONTACTS

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Van Ness Feldman LLP has served Alaska Native and American Indian communities and the businesses they own and operate since the day the firm opened its doors in 1977. Among the firm's very first clients was a regional Alaska Native Corporation ("ANC") that today has over \$1 billion in gross revenue. From the firm's inception through the present day, Van Ness Feldman professionals have been at the cutting edge of legislative, regulatory, litigation, and transactional solutions that power economic development for Native peoples.

Our lawyers and policy professionals have years of experience and diverse talents to assist Native communities and their businesses, as well as stakeholders and business partners collaborating with them, with the conviction that Nation Building and meaningful economic success requires sophisticated national counsel. Van Ness Feldman's capabilities are provided from a platform that is fully integrated, rate-sensitive, and culturally aware.

Our services include:

- Strategic business advice and transactional work.
- Litigation and alternative dispute resolution in tribal, state, and federal courts.
- Government relations representation in state legislatures and Congress.
- Regulatory advice on issues related to energy development, environmental concerns, small business development, Indian affairs, lands issues, government contracting, and banking and financial services.
- Risk assessment, compliance counseling, and organizational planning for tribal businesses and their enterprise partners.

Our clients include:

- American Indian Tribes.
- Alaska Native Corporations, tribally-owned businesses, and their enterprise partners.
- Individual Indian-owned businesses.
- Private companies responsibly doing business in Indian Country.
- Non-profits and foundations with programmatic interests in Indian Country.

ALASKA NATIVE ISSUES

Strengthening Alaska Native economic development has been a core mission of the firm since its founding. Our attorneys have decades of experience navigating the Alaska Native Claims Settlement Act ("ANCSA"), drafted in part by one of the firm's founders, Bill Van Ness, and the Alaska National Interest Lands Conservation Act ("ANILCA"). Van Ness Feldman represents Alaska Native Regional and Village Corporations and other Alaska Native groups on a wide range of issues, including:

- Conveyance of lands to Alaska Native Corporations;
- Completion of land exchanges between Alaska Native Corporations and the federal government;

- Drafting and securing enactment of technical amendments to ANCSA;
- Advocacy on other Native issues, such as health, education, and cultural preservation;
- Representing Alaska Native interests in federal land management processes;
- Consultation on business transactions and strategic planning;
- Securing federal appropriations or grants;
- Advising Alaska Native interests on evolving Arctic policy;
- Counsel on issues relating to cultural heritage interpretation and provision of visitor services in the National Parks and on other federal lands; and
- Protection of subsistence hunting and fishing rights.

REGULATORY MATTERS

Van Ness Feldman's Native Affairs practice assists Alaska Native interests, tribal businesses, and related corporate business partners with regulatory matters at the tribal, state, and federal level. Whether advising tribes on drafting and implementing tribal regulatory codes that are at the very heart of self-determination or advising ANCs and tribes on complex federal regulatory matters, our attorneys and professionals bring over 40 years of experience to bear. Our experience includes:

- Assisting Alaska Native and tribal interests in both shaping and complying with federal regulatory issues involving Indian lands, energy, environment and natural resources, finance and banking, housing, education, and healthcare issues;
- Advising tribal governments with drafting and implementing tribal regulatory regimes, the design and operation of tribal regulatory offices, and related enforcement issues; and
- Advocacy on regulatory efficiency and flexibility issues before agencies, the Office of Management and Budget, and Small Business Regulatory Flexibility Act panels.

ENERGY DEVELOPMENT

As the United States continues to enjoy a renaissance as a global energy leader, Native American and Alaska Native lands are and will continue to be an integral component in securing the nation's energy future. With significant growth potential in both the conventional and renewable sectors, Native lands provide significant opportunities for both tribal economic development and private sector collaborations. Drawing on significant cross-disciplinary capabilities, Van Ness Feldman's Native Affairs Practice Group is designed to provide tribes and companies with full service support on every aspect of energy development on tribal lands. Our capabilities include:

- Helping both energy companies and tribes negotiate rights-of-way across tribal lands, enabling parties to reach mutually beneficial outcomes within desired timeframes;
- Assisting clients in the siting of conventional and renewable energy facilities on reservation lands, advising on both federal land use and environmental components of the projects and on issues related to tax and end use agreements; and
- Counseling clients on both onshore and offshore oil and gas development issues.

CORPORATE AND TRANSACTIONAL MATTERS

The Native Affairs practice brings a cross-disciplinary approach to assembling the best team for each client's discrete needs in exploring, negotiating, and closing transactions. A boutique firm approach to corporate and transactional matters is combined with specialized knowledge of issues affecting Alaska Native Corporations and tribally-owned businesses. Van Ness Feldman attorneys can assist clients from the earliest phases, involving non-disclosure agreements and term-sheets through the conclusion of a deal, with closing and business integration challenges. Each step of the way, our work is driven by the

core practice value of promoting economic development among Native peoples. Our capabilities include:

- Negotiation of term sheets, letters-of-intent, and memoranda of understanding;
- Drafting and negotiation of asset purchase and merger agreements;
- Risk underwriting for transactions in highly-regulated market segments;
- Preparation of financing agreements, loan documents, and special provisions such as earn-outs;
- Counseling on selection of a corporate form and operational planning; and
- Navigating indemnification and insurance issues.

LANDS AND ENVIRONMENTAL ISSUES

As a nationally-recognized leader on land use, real estate, public lands, natural resources, and environmental issues, Van Ness Feldman's Native Affairs practice is able to leverage the firm's expertise to serve Indian Nations and Alaska Native interests in acquiring, protecting, and responsibly developing their homelands and other land assets. The firm has over four decades of experience in advising Alaska Native Corporations and other Alaska Native interests on ANCSA and ANILCA lands issues, making our attorneys some of the foremost authorities in this area. In the lower 48 states, Van Ness Feldman has served tribal organizations, non-profit groups, and corporate partners working with Indian Country on a range of lands issues, including negotiating land access, acquisition, and exchanges, and scoping development agreements for natural resources. With industry-recognized leaders in environmental regulation related to air, water, and climate change, and substantial expertise and experience in land and natural resources issues, Van Ness Feldman is able to advise clients on complex environmental permitting and enforcement issues that can be further complicated when operating in Indian Country. We have significant experience in:

- Negotiating right-of-ways, business leases, oil and gas leases, and renewable energy leases on and through Indian Country;
- Working with the Department of the Interior and its constituent Bureaus and Services—including the Bureau of Indian Affairs, Bureau of Land Management, U.S. Fish and Wildlife Service, Bureau of Ocean Energy Management, Bureau of Safety and Environmental Enforcement, and National Park Service—and with the U.S. Forest Service to advocate for client interests;
- Advising clients on the potential implications of federal efforts to take land into trust;
- Collaborating with Members of Congress and federal agencies on behalf of tribes and ANCs seeking to engage in land exchanges;
- Representing clients' interests with regard to the sharing of their cultural heritage and the provision of visitor services in the National Parks and on other federal lands; and
- Counseling tribal governments and corporate clients on environmental regulation of air, water, and climate change.

ECONOMIC DEVELOPMENT

Van Ness Feldman's Native Affairs practice has been involved in numerous significant and innovative initiatives that promote economic development on reservations, particularly those that are in remote areas, and not close enough to large population centers to benefit from gaming.

The firm's attorneys helped create the Native American Bank, a federally chartered financial institution that focuses on providing loans and other banking services to Indian Country, and have counseled the oldest Community Development Financial Institutions (CDFIs) in Indian Country. The firm's professionals also led the lobbying effort for legislation to provide tribes and ANCs with special rights (such as the right to large sole source contracts) under the SBA 8(a) program, helped to draft the regulations implementing

those rights, and have assisted numerous tribes and ANCs in obtaining 8(a) certification to promote their economic betterment.

More recently the firm has represented tribal industry groups in the areas of consumer finance and e-commerce – including matters dealing with new technologies such as Blockchain and Cryptocurrency. The firm has also advised Native-owned natural food companies on how to raise and manage capital and utilize internet sales channels to close the gap in geographic isolation.

LITIGATION AND RISK MANAGEMENT

Van Ness Feldman provides a full range of litigation, dispute resolution, and risk management services to Alaska Native and tribal businesses and their key business partners. Our lawyers bring a collaborative approach to litigation and risk management, partnering with in-house counsel and business leaders to provide effective but cost-efficient services tailored to individual client needs. We combine a deep knowledge of federal Indian law and policy with national counsel expertise in litigation at the trial and appellate level, whether before federal, state, or tribal courts. Van Ness Feldman’s Native Affairs practitioners are prepared to assist tribes and their partners with:

- Commercial disputes involving tribal businesses and government contracting subsidiaries;
- Tribal court litigation;
- Trial court and appellate matters involving federal agency matters;
- The design and use of alternative dispute resolution methods such as mediation and arbitration;
- Specific federal Indian law issues such as sovereign immunity, Rule 19 motions, and the applicability and enforceability of state regulations; and
- Risk management counseling that assists organizations with minimizing potential liability and litigation threats.