



## Karl R. Heisler

Partner

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### Practices

FOCUS: Environmental  
and Workplace Safety

Energy Litigation

Electronic Discovery  
and Information  
Governance

White Collar,  
Investigations and  
Compliance

Litigation

Privacy, Data and  
Cybersecurity

Major Accident and  
Incident Response

Workplace Safety and  
OSHA

Environmental Crimes  
and Internal  
Investigations

Environmental Civil  
Litigation

Environmental  
Regulatory and  
Permitting

Environmental and  
Workplace Safety  
Coalitions

Real Estate

### Industries

Aviation

Construction

Karl Heisler concentrates his practice on civil and criminal environmental enforcement and regulatory counseling. For the past 15 years, he has conducted internal investigations involving the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Superfund, and the Federal Insecticide, Fungicide, and Rodenticide Act. Karl has responded to government investigations covering every major federal environmental statute at facilities located throughout the country. He has provided counsel to a number of Fortune 500 companies, responding to grand jury subpoenas, search warrants, civil information requests and whistleblower allegations. He defends clients facing obstruction of justice, false statements and other Title 18 allegations.

Clients have described Karl as having "an unparalleled ability to master the facts and an encyclopedic mastery of environmental law." (*Benchmark Litigation 2016*). *Law360* has recognized him as one of five "Rising Stars" in environmental law nationwide.

Karl dedicates a significant portion of his practice to environmental transactions. He provides advice and counsel on due diligence and the availability of Superfund defenses, and he routinely negotiates representations, warranties, and indemnifications in major transactional matters. He has assisted with acquisitions and divestitures of several entities subject to government investigations arising out of environmental and workplace safety incidents. For the past six years, he has taught the environmental transactions course for the Environmental Law Institute, a leader in non-partisan research and environmental law education.

Karl's clients include public and private entities in the chemical manufacturing, construction services, waste management and energy industries, as well as lenders, private equity and real estate investment firms with interests in these industries.

Karl is a prolific speaker on environmental law and incident response, including cybersecurity. Threat actors are increasingly targeting our nation's most critical infrastructure, which can result in catastrophic harm to the environment and public health. This past year's speaking engagements included "Legal Risks from Cyber-Threats in the Energy and Transportation Sectors" to the American Fuel & Petrochemical Manufacturers and "A Lawyer's Guide to Cyber-Regulatory Enforcement" to the Association of Corporate Counsel in San Antonio, Texas.



Energy  
Finance and Financial  
Services  
Technology  
Chemicals  
Hospitality

### Recognition

*Legal 500*, 2018  
Super Lawyers Rising  
Stars, Washington,  
DC, 2013  
Law360, Environmental  
Rising Star, 2013

### Education

JD, University of  
Virginia School of Law  
BA, University of  
Virginia

### Bar Admissions

District of Columbia  
Illinois  
Virginia

### Court Admissions

US District Court,  
Eastern District of  
Virginia  
US Court of Appeals,  
District of Columbia  
Circuit  
US Court of Appeals,  
Fourth Circuit  
US District Court,  
Northern District of  
Illinois  
US Court of Appeals,  
Seventh Circuit

Karl's pro bono work includes serving as outside general counsel to the Rock Creek Conservancy, a non-profit group dedicated to protecting and restoring the Rock Creek Park and its watershed. Established in 1890, Rock Creek Park is one of our nation's first national parks.

### Selected Experience

#### Clean Air Act

- Representation of a Fortune 50 energy company in connection with federal civil and criminal investigations arising out of the Clean Air Act's risk management plan RAGAGEP provision, as well as the application of API 570 (Piping Inspection Code), API Recommended Practice 574 (Inspection Practices for Piping Components), API Recommended Practice 571 (Damage Mechanisms Affecting Fixed Equipment in the Refining Industry) and API Recommended Practice 939-C (Guidelines for Avoiding Sulfidation Corrosion Failures in Oil Refineries).
- Representation of a Fortune 50 energy company in connection with a federal criminal investigation arising out of the application of NSPS Subpart J to flaring operations at an oil refinery.
- Representation of a Fortune 50 energy company in connection with federal and state civil, criminal and administrative investigations arising out of the application of NSPS Subpart Kb to alleged storage vessels at upstream production facilities.
- Representation of a Fortune 50 energy company in connection with a variety of Title V regulatory concerns affecting Alaska offshore drilling platforms.
- Representation of a global investment trading company in connection with a federal criminal investigation arising out of the application of NESHAP asbestos work practice standards to the renovation of a 450+-unit residential complex.
- Representation of a Fortune 200 electric power company in connection with federal civil and criminal investigations arising out of the NOx Budget Trading Program.
- Representation of a Fortune 500 private-sector coal company in connection with a state securities investigation into climate change disclosures.
- Representation of a trade association for the ethanol industry in connection with government inspection readiness.

#### Clean Water Act

- Representation of one of the largest pipeline companies in the United States as standby incident response counsel, including in connection with multiple EPA, PHMSA, NTSB and state environmental investigations into releases from underground petroleum pipelines.
- Representation of a global leader in the manufacture and distribution of water treatment chemicals in connection with a post-*Deepwater* federal criminal investigation into alleged violations of the Clean Water Act on an offshore oil and gas platform in the Gulf of Mexico.



- Representation of a Fortune 50 energy company in connection with federal and state NPDES enforcement concerns at an oil refinery.
- Representation of one of the largest independent midstream energy companies in North America in connection with a federal criminal investigation into the alleged dumping of hazardous materials down a storm drain as part of a scheme involving the false production of biodiesel.
- Representation of one of the world's largest providers of wastewater management solutions in connection with a federal criminal investigation and prosecution arising out of a chlorine release. Served on the team that secured an across-the-board acquittal of a 26-count criminal indictment in *United States v. United Water Services, Inc.* (N.D. Ind. 2012).
- Representation of a Fortune 200 leading processor and marketer of fresh pork and packaged meats in connection with a federal criminal investigation into allegations of unpermitted discharges of process wastewater. Provided advice and counsel in connection with the design and construction of a state-of-the-art wastewater treatment system and associated NPDES permitting concerns.
- Representation of a leading lawn and garden manufacturer in connection with a pilot study relating to the design and construction of a wastewater treatment system and associated NPDES permitting concerns, including the applicability of the RCRA wastewater treatment unit exemption.
- Representation of a global leader in specialty chemicals in connection with federal civil and criminal investigations arising out of an alleged failure to operate pollution control equipment at a wastewater treatment facility.
- Representation of a leading construction materials and services company in connection with a federal criminal investigation into stormwater management practices at multiple facilities located throughout the Northeast.

#### **Maritime**

- Representation of a senior crew member of the *F/V Pacific Breeze*, a fishing vessel operating in the South Pacific, in connection with allegations arising under MARPOL and the Act to Prevent Pollution from Ships by failing to maintain an accurate Oil Record Book.

#### **Resource Conservation and Recovery Act**

- Representation of a leading credit and asset-based investor group in connection with a state environmental investigation arising out of a tenant's abandonment of millions of pounds of cathode ray tubes and related e-waste.
- Representation of a Fortune 500 natural gas utility in connection with a federal criminal investigation into the alleged release of a natural gas odorant.
- Representation of one of the world's largest integrated producers of polymers and fibers in connection with a federal criminal investigation into shipments of byproducts, co-products and co-products used as fuels.



- Representation of a leading lawn and garden manufacturer in connection with federal civil investigations at a packaging facility.
- Representation of a global leader in the manufacture and distribution of water treatment chemicals in connection with a federal criminal investigation into the alleged storage of hazardous waste for more than 90 days without a permit.

#### **Federal Insecticide, Fungicide and Rodenticide Act**

- Representation of a leading lawn and garden manufacturer in connection with the largest federal civil and criminal investigations in the history of the FIFRA program.
- Representation of a specialty chemical manufacturer in connection with FIFRA pesticide registration issues.

#### **Environmental Transactions**

- Representation of a Fortune 50 energy company in connection with the divestiture of \$600 million in oil and gas assets subject to pending administrative, civil and criminal investigations.
- Representation of a global leader in specialty chemicals in connection with the divestiture of a specialty-batch chemical manufacturing facility subject to pending federal civil and criminal investigations.
- Representation of a leading lawn and garden manufacturer in connection with the potential acquisition of a fertilizer manufacturing facility.
- Representation of a leading lawn and garden manufacturer in connection with the divestiture of product lines subject to pending federal civil and criminal investigations.
- Representation of an aerospace conglomerate in connection with the provision of engineering consulting services to offshore oil and gas platforms.
- Representation of one of the largest pipeline companies in the United States in connection with multiple access and indemnity agreements, due diligence efforts, and real estate acquisitions.
- Representation of one of the world's largest asset managers in connection with lender liability issues associated with term loans secured by real estate.
- Representation of a financial services firm with an energy focus in connection with institutional controls necessary to maintain *bona fide* prospective purchaser protections following the acquisition of a Superfund site.
- Representation of a commercial real estate investment firm in connection with a lender's request for an environmental opinion relating to a utility's obligations to remediate a transformer leak on the acquired property.

#### **Workplace Safety**

- Representation of a Fortune 50 energy company in connection with civil, criminal and administrative investigations by the CSB and various state and local agencies into an explosion and fire at an oil refinery.



- Representation of a Fortune 50 energy company in connection with a mechanical integrity review of fixed equipment inspection and maintenance programs for oil refineries located throughout the United States, Canada and South Africa.
- Representation of one of the largest independent midstream energy companies in North America in connection with a federal criminal investigation into an explosion and fire at a hazardous materials recycling center.
- Representation of one of the world's largest integrated producers of polymers and fibers in connection with an internal investigation into the OSHA recordability of alleged exposure to a chemical manufactured by less than 10 facilities in the world.

### **Memberships**

- American Bar Association, Section of Environment, Energy, and Resources and Criminal Justice Section
- Virginia Bar Association, Environment, Natural Resources, and Energy Law Section
- Virginia State Bar, Environmental Law Section
- District of Columbia Bar, Environment, Energy and Natural Resources Section
- The Sedona Conference, Working Group on Electronic Document Retention and Production
- Association of Certified E-Discovery Specialists
- The Chicago Bar Association
- Illinois State Bar Association

### **Advisories**

- TAR Transparency Required in New DOJ Model Second Request (February 6, 2017)

### **Articles**

- Author, Hurricane Readiness and Response: The Hospitality Industry, *Law360* (October 13, 2017)
- Co-author, Board Oversight of Environmental Management After Sarbanes-Oxley, *Executive Counsel* (October 2006)
- Co-author, Is It Time to Disclose Climate Risks? *Executive Counsel* (October 2005)

### **Books**

- *Inside the Minds: Environmental Law Enforcement and Compliance*, Thomson Reuters/Aspatore, Understanding Environmental Law Enforcement (2011)

### **Newsletters**

- Top 5 Environmental Issues Affecting Commercial and Real Estate Transactions (July 28, 2017)
- *Katten Safety Advisory Group Cybersecurity Dashboard* (October 26, 2016)



- *Katten Safety Advisory Group Cybersecurity Dashboard* (August 31, 2016)
- *Katten Safety Advisory Group Cybersecurity Dashboard* (July 27, 2016)

### **Speaking Engagements & Presentations**

- *Special Institute on Today's Environmental Agencies: Regulatory Enforcement, Citizen Suits, and the Natural Resources Industries* | Denver, Colorado (December 6–7, 2018)
- *Due Diligence Considerations in Transactional Environmental Law* | 27th Annual Environmental Law Institute Eastern Boot Camp on Environmental Law | Washington, DC (November 12–14, 2018)
- *Keeping Your Clients Clean – Mitigating Environmental Risks in Real Estate Transactions* | Association of Corporate Counsel, Real Estate Network (May 24, 2018)
- *Cybersecurity in the Restaurant and Food Service Industry* | Client Presentation | Tampa, Florida (December 14, 2017)
- *Due Diligence Considerations in Transactional Environmental Law* | 26th Annual Environmental Law Institute Eastern Boot Camp | Washington, DC (November 3, 2017)
- *Introduction to Environmental Real Estate Transactions* | Lawline | Webinar | New York, New York (April 24, 2017)
- *Legal Risks from Cyber-Threats in the Energy and Transportation Sectors* | Client Presentation | San Antonio, Texas (April 7, 2017)
- *Knocking at Your Door: What to Do When the Feds Want Your Data* | ABA TECHSHOW 2017 | Chicago, Illinois (March 15–18, 2017)
- *A Lawyer's Guide to Cyber-Regulatory Enforcement and Response* | Association of Corporate Counsel | San Antonio, Texas (December 7, 2016)
- *Due Diligence Considerations in Transactional Environmental Law* | 25th Annual Environmental Law Institute Eastern Boot Camp | Washington, DC (November 4, 2016)
- *Legal Risks from Cyber-Threats in the Energy and Transportation Sectors* | 2016 American Fuel & Petrochemical Manufacturers Q&A and Technology Forum | Baltimore, Maryland (September 25–28, 2016)
- *Incident Response: Managing the First 96 Hours* | Client Presentation | Houston, Texas (January 27, 2016)
- *Turning Legalese Into Tech Speak: Legal Holds in 2015* | Association of Corporate Counsel | McLean, Virginia (December 8, 2015)
- *Due Diligence Considerations in Transactional Environmental Law* | 24th Annual Environmental Law Institute Eastern Boot Camp | Washington, DC (November 9–11, 2015)



- *Pre-Indictment Investigations and the Fifth and Sixth Amendments; the Role of Social Media in Investigations and Prosecutions* | Electronic Discovery in Criminal Investigation and Trials 2014 | Practising Law Institute | New York, New York (December 16, 2014)
- *Due Diligence Considerations in Transactional Environmental Law* | 23rd Annual Environmental Law Institute Eastern Boot Camp | Washington, DC (November 10–12, 2014)
- Moderator and Planning Chair | *Incident Response: E-Discovery in Government Investigations* | The American Law Institute – Continuing Legal Education | Washington, DC (July 30, 2014)
- *Environmental Due Diligence and Ethics and Compliance Programs* | Client Presentation | Ohio (February 24, 2014)
- *Due Diligence Considerations in Transactional Environmental Law* | 22nd Annual Environmental Law Institute Eastern Boot Camp | Washington, DC (November 11–13, 2013)
- *Due Diligence Considerations in Transactional Environmental Law* | 21st Annual Environmental Law Institute Eastern Boot Camp | Washington, DC (November 14–16, 2012)
- *A New Discovery Frontier: The Proliferation of Mobile Devices and Web-Based Environments* | Association of Corporate Counsel | Washington, DC (October 23, 2012)
- *Incident Response: Legal Considerations for Public Information Officers* | Client Presentation | Georgia (August 29, 2012)
- *Effectively Handling Government Inspections of Ethanol Production Facilities* | Client Presentation | Minneapolis, Minnesota (June 4, 2012)
- *Due Diligence Considerations in Transactional Environmental Law* | 20th Annual Environmental Law Institute Eastern Boot Camp | Washington, DC (November 9–11, 2011)
- *Best Practices for Electronic Data Retention, Collection and Destruction* | Client Presentation | Bethesda, Maryland (November 3, 2011)
- *Enterprise Content Management* | Client Presentation | Ohio (July 11, 2011)
- *E-Discovery for Law Enforcement (Criminal Investigations)* | Computer and Enterprise Investigations Conference | Summerlin, Nevada (May 24–27, 2010)
- *Preparing for a Government Inspection* | Homeland Security Seminar/Webinar: Developing Site Security Plans Under the Chemical Facility Anti-Terrorism Standards | Washington, DC (June 26, 2009)
- *Client Risk Management* | Hunton & Williams LLP CLE Program | Lansdowne, Virginia (November 11, 2008)