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Come Hell and High Water: Climate Change Policy in the Age of Trump

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COME HELL AND HIGH WATER: CLIMATE CHANGE POLICY IN THE AGE OF TRUMP

Brigham Daniels*

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INTRODUCTION

Thinking about the Trump Administration and climate change presents difficulties. In terms of our political discourse, civility, partisanship, and even our public aspirations, we sit at a low point of politics that we have not seen for decades. At the same time, when it comes to climate change, we are paralyzed and are continually failing to act on one of the great challenges of this generation. It is easy to feel depressed as one considers two realities: the current administration is not up for the challenge, and the challenge is in many ways insurmountable even when Washington is at its best. Still, looking ahead, it is not all despair. The title of this essay, *Come Hell and High Water*, suggests that we are facing challenges of enormous proportions. It also suggests that the way to respond to these challenges is through digging deep and facing them with grit and courage.

In this essay, I attempt to give a fair—even if depressing—picture of where we stand as we face climate change in the age of Trump and then provide some more general thoughts about climate change policy in the bigger picture, including how to think about climate change in a post-Trump world.

Specifically, in Part I, I briefly detail Trump’s position on climate change and what has happened with climate change policy since President

*This short essay is a product of a transcribed speech given on October 20, 2017 as part of *FIU Law Review’s* Symposium on Environmental Federalism in the Trump Era: Rescuing the Environment, Resources, and Climate. The speech has been altered and updated some. I thank the *FIU Law Review* and Kalyani Robbins for the opportunity to participate in one of the best managed and most interesting symposiums I have ever attended. I also thank the participants of the symposium for helpful comments on these remarks, particularly Kalyani Robbins, Rebecca Bratspies, Tracy Hester, Erin Ryan, Bret Birdsong, and Jessica Owley.

Trump took office. Part II puts what we are seeing into a broader historical and political context. Part III provides some speculations about where we are heading. This Part also includes a plea to those concerned about our direction to take action to change it. In Part IV, I briefly conclude.

I. PRESIDENT TRUMP ON CLIMATE CHANGE

In this Part there is very little I offer that might inspire optimism. The reason for this has to do with the fact that President Trump's positions and actions on climate change are simply an attempt to institutionalize climate denialism. Later Parts in the essay provide some reasons for hope, as well as encouragement that we ought to fight for a better future.

But we start with climate denialism and Trump. This is nothing new for him. Since 2011 he has tweeted his skepticism of climate change over a hundred times.¹ Additionally, climate denialism has in fact been one of the overarching themes of his candidacy and presidency. While it is not as dominant as his criticism of President Obama and Hillary Clinton, it certainly is a dominant strand of his Twitter feed. Here are a few examples:

In the 1920s, people were worried about global cooling, it never happened, now it's global warming, give me a break.² Do you believe Al Gore is blaming global warming for a hurricane?³ Let's continue to destroy the competitiveness of our factories and manufacturing so we can fight mythical global warming. China is so happy!⁴

Sadly, Trump's tweets have not changed since his election. Just in December 2017, even as the world on average faced an unusually warm month,⁵ he tweeted:

In the East, it could be the COLDEST New Year's Eve on record. Perhaps we could use a little bit of that good old Global Warming that our Country, but not other countries,

¹ Kendra Pierre-Louis, *It's Cold Outside. Cue the Trump Global Warming Tweet*, N.Y. TIMES (Dec. 28, 2017), <https://www.nytimes.com/2017/12/28/climate/trump-tweet-global-warming.html>.

² Donald Trump (@realDonaldTrump), TWITTER (May 4, 2012, 1:13 PM), <https://twitter.com/realDonaldTrump/status/198505724689649664>.

³ Donald Trump (@realDonaldTrump), TWITTER (NOV. 1, 2012, 7:13 AM), <https://twitter.com/realDonaldTrump/status/264007296970018816>.

⁴ Donald Trump (@realDonaldTrump), TWITTER (Nov. 1, 2012, 7:23 AM), <https://twitter.com/realDonaldTrump/status/264009741234221058>.

⁵ Pierre-Louis, *supra* note 1.

was going to pay TRILLIONS OF DOLLARS to protect against. Bundle up!⁶

Of course, President Trump's position on climate change is much more than the bluster of his tweets. Rather, what we have seen over his first year is a concerted effort to take this deep skepticism of climate change and find ways to turn it into policy.

I do not intend to go in a lot of depth here, but I do hope to provide some examples of how this has been done. The hope here is to demark generally where we are when it comes to climate change policy in the Trump Administration.

First, President Trump has used the appointment power to try to fill his administration with those that ignore or deny climate change, particularly in those positions dealing with issues related to climate change.⁷ Chief skeptic among them is the Administrator of the EPA, Scott Pruitt—a fact that has been overshadowed by a long list of scandals during his time as Administrator. It is easy to forget that he—the Administrator of the EPA!—questions whether carbon dioxide is a primary contributor of the warming climate,⁸ a skepticism that flies in the face of a long-standing recognition of climate change at the EPA dating back at least to the 1990s. Indeed, despite this antagonistic approach to the challenge of climate change and his penchant for questionable management of agency resources, in terms of getting things done, Pruitt has proven to be one of the most effective members of Trump's cabinet⁹ working towards rolling back environmental protection with what has manifested itself as a near-religious zeal.¹⁰ Another prominent skeptic in an important position dealing with climate change is Energy Secretary Rick Perry, who actually used to be a proponent of eliminating the

⁶ Donald Trump (@realDonaldTrump), TWITTER (Dec. 28, 2017, 7:01 PM), <https://twitter.com/realDonaldTrump/status/946531657229701120>.

⁷ Oliver Milman, *Trump's Transition: Sceptics Guide Every Agency Dealing with Climate Change*, GUARDIAN (Dec. 12, 2016), <https://www.theguardian.com/us-news/2016/dec/12/donald-trump-environment-climate-change-skeptics>; see, e.g., Evan Halper, *Trump Names Climate Change Skeptic and Oil Industry Ally to Lead the EPA*, L.A. TIMES (Dec. 7, 2016, 4:30 PM), <http://www.latimes.com/politics/la-na-pol-trump-epa-20161207-story.html>.

⁸ Associated Press, *EPA Chief: Carbon Dioxide not Primary Cause of Global Warming*, L.A. TIMES (Mar. 9, 2017, 8:56 AM), <http://www.latimes.com/politics/washington/la-na-essential-washington-updates-1489078393-htmlstory.html>.

⁹ Brady Dennis & Julie Eilperin, *How Scott Pruitt Turned the EPA into One of Trump's Most Powerful Tools*, WASH. POST (Dec. 31, 2017), https://www.washingtonpost.com/national/health-science/under-scott-pruitt-a-year-of-tumult-and-transformation-at-epa/2017/12/26/f93d1262-e017-11e7-8679-a9728984779c_story.html.

¹⁰ Taegan Goddard, *Pruitt Says God Justifies His Environmental Policies*, POL. WIRE (Feb. 24, 2018), <https://politicalwire.com/2018/02/24/pruitt-says-god-justifies-environmental-policies/>.

Department of Energy.¹¹ To head the Council on Environmental Quality (CEQ), which is the chief policy position within the White House that oversees and advises on environmental issues, President Trump nominated outspoken climate change skeptic Kathleen Hartnett White.¹² Harnett White has said that belief in global warming is a kind of paganism for secular elites.¹³ In her hearings, she proved herself to be completely unaware of many environmental issues and, particularly, climate change.¹⁴ Ultimately, likely because she was such a flawed nominee, the Trump Administration withdrew her nomination.¹⁵

To be the NASA Administrator—an agency that has in recent decades been a leader on climate change science—President Trump nominated another skeptic: James Bridenstine of Oklahoma.¹⁶ Finally, for the Department of Agriculture’s Chief Scientist, President Trump nominated skeptic Sam Clovis, who has no scientific background,¹⁷ though he too has withdrawn consideration of his candidacy.¹⁸ Beyond these, many of the top scientist jobs remain open¹⁹ and are likely to go unfilled. That is just the tip of the iceberg, and it is melting.

¹¹ Steven Mufson & Sean Sullivan, *Rick Perry Expresses ‘Regret’ for Pledging to Abolish Energy Department*, WASH. POST (Jan. 19, 2017), https://www.washingtonpost.com/business/economy/rick-perry-seeks-to-lead-the-energy-department-an-agency-he-pledged-to-abolish/2017/01/18/19b14494-dd0a-11e6-acdf-14da832ae861_story.html.

¹² Brady Dennis & Chris Mooney, *Trump Taps Climate Skeptic for Top White House Environmental Post*, WASH. POST (Oct. 13, 2017), <https://www.washingtonpost.com/news/energy-environment/wp/2017/10/13/trump-taps-climate-skeptic-for-top-white-house-environmental-post/>.

¹³ Andrew Kaczynski, *Trump Pick for Top Environmental Post Called Belief in Global Warming a ‘Kind of Paganism’*, CNN (Oct. 19, 2017), <https://www.cnn.com/2017/10/19/politics/kfile-kathleen-hartnett-white-paganism/index.html>.

¹⁴ Brady Dennis & Juliet Eilperin, *White House Withdraws Controversial Nominee to Head Council on Environmental Quality*, WASH. POST (Feb. 4, 2018), <https://www.washingtonpost.com/news/energy-environment/wp/2018/02/03/white-house-to-withdraw-controversial-nominee-to-head-council-on-environmental-quality/>.

¹⁵ *Id.*

¹⁶ Kenneth Chang, *Jim Bridenstine to Be Nominated by Trump to Lead NASA*, N.Y. TIMES (Sept. 2, 2017), <https://www.nytimes.com/2017/09/02/science/jim-bridenstine-nasa-trump.html>.

¹⁷ Juliet Eilperin, *Trump Agriculture Nominee Sam Clovis Confirms He Has No Hard-Science Credentials, Withdraws over Ties to Russia Probe*, WASH. POST (Nov. 2, 2017), <https://www.washingtonpost.com/news/energy-environment/wp/2017/11/02/sam-clovis-trumps-nominee-for-usdas-top-scientist-confirms-he-has-no-hard-science-credentials/>.

¹⁸ Juliet Eilperin & Philip Rucker, *Sam Clovis Withdraws His Nomination for USDA’s Top Scientist Post After Being Linked to Russia Probe*, WASH. POST (Nov. 2, 2017), <https://www.washingtonpost.com/news/powerpost/wp/2017/11/02/sam-clovis-withdraws-nomination-for-usdas-top-scientist-post-after-being-linked-to-russia-probe/>.

¹⁹ Chris Mooney, *85 Percent of the Top Science Jobs in Trump’s Government Don’t Even Have a Nominee*, WASH. POST (June 6, 2017), <https://www.washingtonpost.com/news/energy-environment/wp/2017/06/06/trump-has-filled-just-15-percent-of-the-governments-top-science-jobs/>.

Second, the Trump Administration has drastically shifted the executive far away from the Obama Administration's environmentally friendly actions and policies. In another article from this excellent symposium, Professor Jessica Owley highlighted how the Trump Administration has opened up coal and gas production.²⁰ We have seen the beginning of the repeal of the Clean Power Plan,²¹ which would have been the most meaningful reform under the Obama administration to reduce climate change gases. There has been reconsideration of the auto emission rule,²² which was the second most effective method that the Obama administration proposed in reducing our greenhouse gases. Budget cuts and decimation have been proposed in our environmental agencies²³ and within those, targeted cuts aimed at dismantling most federal climate programs.²⁴ This is true of the EPA, the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), the United Nations, the Department of Energy, and NASA.²⁵ We have also seen the approval of the Keystone²⁶ and Dakota Access Pipelines.²⁷

President Trump has issued executive orders to rescind a number of federal policies of the Obama Administration aimed at combating climate

²⁰ Jessica Owley, *Taking the Public out of Public Lands: Shifts in Coal-Extraction Policies in the Trump Administration*, 13 FIU L. REV. 35, 37–42 (2018).

²¹ *EPA Takes Another Step to Advance President Trump's America First Strategy, Proposes Repeal Of "Clean Power Plan"*, U.S. ENV'T'L PROT. AGENCY (Oct. 10, 2017), <https://www.epa.gov/newsreleases/epa-takes-another-step-advance-president-trumps-america-first-strategy-proposes-repeal>.

²² Dino Grandoni, *Trump Officials Begin Review of Obama Emissions Standards for Cars*, WASH. POST (Aug. 10, 2017, 10:52 PM), <https://www.washingtonpost.com/news/energy-environment/wp/2017/08/10/trump-officials-begin-review-of-obama-emissions-standards-for-cars/>.

²³ Brady Dennis, *Trump Budget Seeks 23 Percent Cut at EPA, Eliminating Dozens of Programs*, WASH. POST (Feb. 12, 2018, 9:40 PM), <https://www.washingtonpost.com/news/energy-environment/wp/2018/02/12/trump-budget-seeks-23-percent-cut-at-epa-would-eliminate-dozens-of-programs/>.

²⁴ Brady Dennis & Juliet Eilperin, *EPA Remains Top Target with Trump Administration Proposing 31 Percent Budget Cut*, WASH. POST (May 23, 2017, 1:02 AM), <https://www.washingtonpost.com/news/energy-environment/wp/2017/05/22/epa-remains-top-target-with-trump-administration-proposing-31-percent-budget-cut/>; Sara Reardon et al., *Trump Budget Would Slash Science Programs Across Government*, SCI. AM. (May 23, 2017), <https://www.scientificamerican.com/article/trump-budget-would-slash-science-programs-across-government/>.

²⁵ Devin Henry, *Trump Proposes Deep Cuts to EPA, Federal Climate Funding*, HILL (Mar. 16, 2017, 7:48 AM), <http://thehill.com/policy/energy-environment/324242-trump-proposes-deep-cuts-to-epa-federal-climate-funding>.

²⁶ *Remarks by the President in TransCanada Keystone XL Pipeline Announcement*, THE WHITE HOUSE (Mar. 24, 2017 10:32 AM), <https://www.whitehouse.gov/briefings-statements/remarks-president-transcanada-keystone-xl-pipeline-announcement/>.

²⁷ *Remarks by President Trump on Regulatory Relief*, THE WHITE HOUSE (June 9, 2017), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-regulatory-relief/>.

change. These policies include those that terminated coal leasing,²⁸ that jettisoned the anti-dumping rule for coal companies,²⁹ that eliminated offshore drilling bans in the Atlantic and the Arctic,³⁰ that required the calculation of social cost of carbon,³¹ and a policy that would require climate change to be considered in federal decision-making.³² Furthermore, to push for further institutionalized climate denialism, the Trump Administration has mandated the absolute scrubbing, deletion, and alteration of any mention of climate change data on federal websites.³³ We saw this from the first day the Trump Administration took over the White House's website.³⁴ Furthermore, at the EPA, this scrubbing was overseen directly by Administrator Pruitt.³⁵ Climate change data has been scrubbed and has gone missing from multiple federal agency websites.³⁶

For those who are concerned with protecting the environment and fighting climate change, times are bleak. In just over a year, President Trump has chosen to completely reverse the path of the United States, one of the greatest contributors on Earth to climate change, from a path of combating climate change under President Obama, to one of denialism and environmental degradation where science is ridiculed and set aside in favor of unfettered business interests. I do not know which direction it will ultimately go in, but I cannot imagine there will be any major course

²⁸ See *id.*

²⁹ See *id.*

³⁰ Juliet Eilperin, *Trump Signs Executive Order to Expand Drilling off America's Coasts: 'We're Opening it up.'*, WASH. POST (Apr. 28, 2017), <https://www.washingtonpost.com/news/energy-environment/wp/2017/04/28/trump-signs-executive-order-to-expand-offshore-drilling-and-analyze-marine-sanctuaries-oil-and-gas-potential/>.

³¹ Chris Mooney, *New EPA Document Reveals Sharply Lower Estimate of the Cost of Climate Change*, WASH. POST (Oct. 11, 2017), <https://www.washingtonpost.com/news/energy-environment/wp/2017/10/11/new-epa-document-reveals-sharply-lower-estimate-of-the-cost-of-climate-change/>.

³² Juliet Eilperin, *Trump is Poised to Issue a Sweeping Order Dismantling Obama's Climate Plan this Week*, WASH. POST (Mar. 14, 2017), <https://www.washingtonpost.com/news/energy-environment/wp/2017/03/14/trump-is-poised-to-issue-a-sweeping-order-dismantling-obamas-climate-plan-this-week/>.

³³ Coral Davenport, *How Much has 'Climate Change' been Scrubbed from Federal Websites? A lot.*, N.Y. TIMES (Jan. 10, 2018), <https://www.nytimes.com/2018/01/10/climate/climate-change-trump.html>.

³⁴ Ashley Parker, *On a Largely Ceremonial Day, Trump Revamps the White House Website and Takes a Few Executive Actions*, WASH. POST (Jan. 20, 2017), <https://www.washingtonpost.com/news/post-politics/wp/2017/01/20/moments-after-taking-the-oath-president-trump-transforms-white-house-website/>.

³⁵ Associated Press, *EPA Chief Scott Pruitt Personally Monitored Removal of Climate Info from Website*, CBS NEWS (Feb. 2, 2018 8:19 AM), <https://www.cbsnews.com/news/epa-chief-scott-pruitt-personally-monitored-removal-of-climate-info-from-website/>.

³⁶ Davenport, *supra* note 33.

corrections in this Administration's environmental policies. I can only imagine we are going to see a continuation of the past year's actions.³⁷

II. PUTTING TRUMP'S POSITIONS ON CLIMATE CHANGE INTO PERSPECTIVE

Let us try to put this in perspective. There is more to climate change policy, even U.S. climate change policy, than the Executive branch. So, what should we think about this?

It is easy to argue that even before President Trump came into power, U.S. policy had failed, often in major ways, to address the problem of climate change.³⁸ As Professor Rebecca Bratspies mentions in her article that is part of this symposium, the level of greenhouse gases in the atmosphere is off the charts.³⁹ Of course, off the charts means in comparison to the last 800,000 years.⁴⁰ There is no indication that, that direction is changing,⁴¹ so this is a very serious problem. Add to this problem the greenhouse gases that are called stock pollutants. Most greenhouse gases in the environment last decades before they go away. So, we are still dealing with stock pollutants that your grandparents, parents, and perhaps even great-grandparents put into the air, depending on what kind we are talking about.⁴² And in our modern society, we are putting more and more of those stock pollutants that have longer lives in the atmosphere. So, whatever increases come from President Trump's policies are bound to stick around much longer than he will be in office.

So, it is a bleak place that we are starting from. I will bring up some more positive news in this Essay as it is not all darkness; just mostly darkness.

³⁷ See *President Trump Vows to Usher in Golden Era of American Energy Dominance*, THE WHITE HOUSE (June 30, 2017), <https://www.whitehouse.gov/articles/president-trump-vows-usher-golden-era-american-energy-dominance/> (describing his "new American energy policy" and promising "this is only the beginning . . . [t]he Golden Era of American Energy is now underway . . .").

³⁸ See Gayathri Vaidyanathan, *Obama Climate Rules Not Enough to Fight Global Warming*, SCI. AM. (June 3, 2014), <https://www.scientificamerican.com/article/obama-climate-rules-not-enough-to-fight-global-warming/>.

³⁹ Rebecca Bratspies, *Protecting the Environment in an Era of Federal Retreat: The View from New York City*, 13 FIU L. REV. 5, 13 (2018).

⁴⁰ *Id.*

⁴¹ See Brad Plumer, *The State of the Climate, One Year into the Trump Era*, N.Y. TIMES (Jan. 31, 2018), <https://www.nytimes.com/2018/01/31/climate/climate-trump.html>.

⁴² See Elaine McArdle, *Tackling Climate Change Through Law, Policy*, HARV. GAZETTE (Apr. 25, 2014), <https://news.harvard.edu/gazette/story/2014/04/tackling-climate-change-through-law-policy/>.

First of all, the rest of the world has not followed President Trump's lead. We do see international progress still being formulated,⁴³ and you also see the U.S. becoming somewhat of an international pariah because of climate change.

In addition, many states and cities within the U.S. are acting to combat climate change without the federal government.⁴⁴ Professor Bratspies highlighted some of these efforts in New York and California where they have introduced a renewable portfolio standard: a method in which a state mandates a targeted goal of renewable energy to make up a portion of a state's energy portfolio over a particular time frame.⁴⁵

Many states and cities, mostly those run by Democrats, have gone down the path of California, which is perhaps the most aggressive. Professor Erin Ryan highlighted that these sorts of regulatory backstops are exactly what our federal system requires or allows for.⁴⁶ So, it is not necessarily all terrible. Furthermore, as a significant portion of society lives in large cities, these actions taken by large cities should not be discounted—these are large portions of the economy.

In addition to this, we have a wide range of entities that are suing the federal government. President Trump can overturn policies but, without Congress's help, cannot overturn law. Currently under most of these environmental laws, citizens, environmental groups, states, and other entities are suing the Trump Administration in an attempt to stop the Administration from further unwinding environmental protections.⁴⁷ As Professor Tracy Hester discusses in his contribution to this symposium, there are also private lawsuits often based in tort, and these have the potential to be game changers in their own right.⁴⁸

⁴³ Laura Parker & Craig Welch, *6 Reasons Why U.S. Paris Reversal Won't Derail Climate Progress*, NAT'L GEOGRAPHIC (June 1, 2017), <https://news.nationalgeographic.com/2017/05/trump-climate-change-paris-agreement-california-emissions/>.

⁴⁴ Erik Kirschbaum, *As Trump Administration Touts Coal at U.N. Gathering, U.S. Cities and States Target Climate Change*, L.A. TIMES (Nov. 17, 2017 5:10 PM), <http://www.latimes.com/world/europe/la-fg-germany-climate-change-20171117-story.html>.

⁴⁵ Bratspies, *supra* note 39, at 15 n.71.

⁴⁶ Erin Ryan, *Presentation at FIU Law Review Symposium: Environmental Federalism in the Trump Era: Rescuing the Environment, Resources, and Climate*, FIU L. (Oct. 20, 2017), <https://lawmediasite.fiu.edu/Mediasite/Play/8b6e74e11c724a1f91afdd55ec98b8a11d?catalog=27fe7e20-5d4a-4adb-967c-ed5c4ddf6e26> (relevant portion located at 1:01:15–1:03:15).

⁴⁷ See, e.g., Brady Dennis, *Environmental Groups Sue Trump Administration over Offshore Drilling*, WASH. POST (May 3, 2017), <https://www.washingtonpost.com/news/energy-environment/wp/2017/05/03/environmental-groups-sue-trump-administration-over-offshore-drilling/>; *Environmental Groups Sue Trump Administration over Proposed King Cove Road in Alaska*, WASH. TIMES (Jan. 31, 2018), <https://www.washingtontimes.com/news/2018/jan/31/environmental-groups-sue-trump-administration-over/>; Julie Turkewitz, *Trump Slashes Size of Bears Ears and Grand Staircase Monuments*, N.Y. TIMES (Dec. 4, 2017), <https://www.nytimes.com/2017/12/04/us/trump-bears-ears.html>.

⁴⁸ See Tracy Hester, *Climate Tort Federalism*, 13 FIU L. REV. 79 (2018).

In addition, markets impact the climate picture and are at least partially immune to policy prescriptions.⁴⁹ Despite what happens in the political sector for many decisions, it is not what is on the books that matter: the dollar rules the day. While markets are significant contributors to climate change, there are also some long-term trends emerging in the market that may help fight climate change.⁵⁰

Perhaps the most significant change in the U.S. is natural gas prices. Over the past ten years, largely due to fracking, the cost of natural gas has decreased significantly, contributing to the decline of coal.⁵¹ The importance of this is that generating electricity from natural gas amounts to around a little less than half of the carbon emissions than the equivalent energy created with coal fire plants.⁵²

This is a major shift. Coal had been declining since the 1980s, and over the past ten years there have been steep declines in coal, mainly due to new gas that has been produced.⁵³ It is hard to imagine that President Trump's policies, which basically aid natural gas development, are going to do anything but make gas cheaper, which makes coal less appealing.⁵⁴

One statistic that is worth noting is that more than half of the coal-fired power plants in the U.S. have been shut down since 2010.⁵⁵ There have been coal plants that have been shuttered since President Trump was elected,

⁴⁹ See generally Tim Worstall, *Mass Employment in Coal Mining Is Never Coming Back, No Matter Trump's Promises or Regulations*, FORBES (Mar. 29, 2017), <https://www.forbes.com/sites/timworstall/2017/03/29/mass-employment-in-coal-mining-is-never-coming-back-no-matter-trumps-promises-or-regulations/>.

⁵⁰ See generally Diane Cardwell & Clifford Krauss, *Coal Country's Power Plants Are Turning Away From Coal*, N.Y. TIMES (May 26, 2017), <https://www.nytimes.com/2017/05/26/business/energy-environment/coal-power-renewable-energy.html>; Justin Worland, *Coal's Last Kick: As Clean Energy Rises, West Virginia Looks Past Trump's Embrace Of Coal To What Comes Next*, TIME (Apr. 8, 2017), <http://time.com/coins-last-kick/>; Justin Worland, *Renewable Energy Continues To Beat Fossil Fuels*, TIME (Feb. 8, 2017), <http://time.com/4662116/renewable-energy-fossil-fuels-growth/>.

⁵¹ Justin Worland, *Coal's Last Kick: As Clean Energy Rises, West Virginia Looks Past Trump's Embrace Of Coal To What Comes Next*, TIME (Apr. 8, 2017), <http://time.com/coins-last-kick/>.

⁵² Bobby Magill, *Natural Gas Emissions Will Surpass Those from Coal in U.S.*, SCI. AM. (Aug. 30, 2016), <https://www.scientificamerican.com/article/natural-gas-emissions-will-surpass-those-from-coal-in-u-s/>.

⁵³ Clifford Krauss, *Coal's Decline seems Impervious to Trump's Promises*, N.Y. TIMES (Jan. 24, 2018), <https://www.nytimes.com/2018/01/24/business/energy-environment/coal-miners.html>.

⁵⁴ Plumer, *supra* note 41 ("The coal industry, responsible for a quarter of the nation's emissions, continues to shrink, edged out of the energy market by less expensive natural gas despite Mr. Trump's efforts to save it.").

⁵⁵ Jeff St. John, *Two Coal Plants Close in Texas, as Trump Admin Pushes Pro-Coal Agenda*, GREEN TECH MEDIA (Oct. 13, 2017), <https://www.greentechmedia.com/articles/read/two-coal-plants-close-in-texas-trump-admin>.

despite his desire to prop up the coal industry.⁵⁶ Decisions about coal power plants are determined on a thirty-year time frame, and a president, even a two-term President Trump, is not going to be able to protect them. Thus, many businesses need to recalibrate.

Another helpful issue to think about is energy efficiency. If it is made price-competitive, who would not want to buy, assuming they are going to buy one anyway, a car, a truck, a washing machine, or whatever that uses less energy?

Even if the federal government is not going to require it, to some extent state standards and international standards are accomplishing this, along with consumer demands. Over the previous decades, as clean energy has grown large, wind farms have become more affordable along with solar, including small-scale private installations on houses.⁵⁷ Even though the Trump Administration has added a tariff to imported solar (in the name of preserving domestic manufacturing jobs),⁵⁸ not much can change the long-term outlook: renewable energy is growing, and it is growing fast. This growth has made a tremendous change. We have seen double-digit growth sustained over the past decade or so of green energy and it is likely to continue to grow.⁵⁹

We have all of these factors going in different directions. President Trump, obviously, is pushing things one way, while various other factors are pushing it another way. However, I would like to put this in a broader context. What does this mean as we are going forward? We have talked a lot about looking back and where we are, but what about going forward? My guess is, as important as President Trump's handling, or as I see it, mishandling, of climate change is, it is likely only one of a large number of issues that are going to determine future presidential elections.

The current American electorate is extremely fractured as the Republican and Democratic parties have practically been at war with each other and with themselves.⁶⁰ In the past, when this has occurred, parties have often ended up reinventing themselves. Let me just provide two different

⁵⁶ Emily Flitter & Scott DiSavino, *Coal Plant Closures Continue Even As U.S. Ends 'Clean Power Plan'*, REUTERS (Oct. 13, 2017, 2:58 PM), <https://www.reuters.com/article/us-usa-energy-coal-closures/coal-plant-closures-continue-even-as-u-s-ends-clean-power-plan-idUSKBN1C12RH>.

⁵⁷ Diane Cardwell, *Solar and Wind Energy Start to Win on Price vs. Conventional Fuels*, N.Y. TIMES (Nov. 23, 2014), <https://www.nytimes.com/2014/11/24/business/energy-environment/solar-and-wind-energy-start-to-win-on-price-vs-conventional-fuels.html>.

⁵⁸ Ana Swanson & Brad Plumer, *Trump Slaps Steep Tariffs on Foreign Washing Machines and Solar Products*, N.Y. TIMES (Jan. 22, 2018), <https://www.nytimes.com/2018/01/22/business/trump-tariffs-washing-machines-solar-panels.html>.

⁵⁹ *Renewables 2017*, INT'L ENERGY AGENCY (Oct. 4, 2017), <https://www.iea.org/publications/renewables2017/>.

⁶⁰ David Von Drehle, *The Party is Over*, WASH. POST (Oct. 20, 2017), https://www.washingtonpost.com/opinions/both-political-parties-may-be-doomed/2017/10/20/4c6cf8b2-b5ca-11e7-be94-fabb0f1e9ffb_story.html.

examples of this, and then maybe some thoughts about where we might be going.

In 1912, Teddy Roosevelt was upset with his predecessor, William Taft, to whom he thought would carry on his conservation fight. Ultimately, President Taft failed miserably at the task and, in Roosevelt's view, had ignored the progressive elements of his legacy. Roosevelt then determined to challenge Taft and the Democratic candidate, Woodrow Wilson, and entered the 1912 election.

Conservation of the environment was one of those things that moved Roosevelt into action; to the extent that we hear Republicans talk about the Republican legacy of environmental protection, Theodore Roosevelt is generally the main justification for such claims. But the election of 1912 was not just about the environment, or even primarily about the environment. The 1912 election was about other things, for the most part: big businesses and their impact on ordinary people, women's suffrage, and tariffs.

In order to win in 1912, Woodrow Wilson co-opted big chunks of Theodore Roosevelt's legacy, which led to a reconfiguration of both Republican and Democratic parties. The environment really did not play a big role in either of the newly reconstructed parties up until the late 1960s and the early 1970s.

The election of 1968 was a raucous affair. At that time, President Nixon ran as a Republican and the election took place in a very tumultuous time. The year 1968 saw the assassination of Martin Luther King Jr. and Robert Kennedy. It was dominated by violent protests, even riots in the streets lasting weeks at a time in many American cities. There were even mass protests going on in a number of places throughout the world.

In the U.S., there were massive demonstrations against the Vietnam War, and there was just as much social unrest resulting from questions about the proper response to these demonstrations. Nixon came into the fore calling for law and order. And, in addition to that, the election featured George Wallace running as a third-party candidate saying there was no difference between either of the parties, focusing most of his energy on segregation.

George Wallace thought the segregation of the South was something that should be valued and neither party seemed to give it the proper time of day. Thus, in running as a third-party candidate, he was criticizing the real shift in the Democratic Party, which had long been associated with protecting white interest in the South.

During JFK's and LBJ's time, the Democratic Party began adopting and embracing some civil rights legislation. Nixon decided, even though he had a strong record of being in favor of civil rights, to run to the right of the Democrats. He positioned himself somewhere in the middle between George

Wallace and the Democrats, opening with what is called a “Southern strategy.”

The Southern strategy was basically a way to court white voters by playing at least somewhat to foot dragging on desegregation. In 1968, Nixon won the presidency by playing at least somewhat to anti-segregationists while almost completely sidelining environmental issues. It is interesting that by 1970 the issue of the environment had become a big part of the national landscape, and an even more important part of Nixon’s administration. For a long time, particularly in the 70’s, the environment was not necessarily a political issue, but it was an issue that the parties were fighting to claim.

III. WHERE ARE WE HEADING?

Where are we now? While the importance of the environment has largely faded from the Republican agenda, the GOP finds itself at an important crossroad.

I suspect that the names Harvey, Irma, Jose, and Maria will resonate well beyond this hurricane season, and not just because it is going to take years to repair the damage done. Add to this the important issues with gender equality. I think the #MeToo and #TimesUp movements underlines many of the issues that are out there. And, like the 1968 election, we still have significant issues of prejudice to grapple with that have manifested themselves lately in increasingly stark examples of nationalism, racism, antisemitism, homophobia, sexism, xenophobia, and hostilities against people with disabilities as well as the LGBTQ communities.

There is a wide range of other issues that have arisen that will undoubtedly influence both political parties. These include everything from players kneeling during the national anthem at NFL games and the role of science more broadly to immigration, healthcare, and tax policy. Furthermore, we have seen concerns for gun violence and gun control receive a great deal of attention in the wake of a number of heartbreaking shootings. There are also issues of war and peace and the United States’ role on the international stage.

Given the demographic shifts that are immediate on the horizon, at least some of these issues will prove decisive with future actions. I am certain of it. It is uncertain, however, how this mess will play out. Polling data suggests that concern about climate change resonates with the growing majority of Americans, and Professor Ryan mentioned earlier in the symposium that younger people are much more likely to see this as an issue, that the generational divide favors action over doing nothing.⁶¹

⁶¹ Ryan, *supra* note 46(relevant portion located at 1:10:40–1:11:20).

So, even with all these other issues at the forefront of American politics, it is likely that climate change will continue to be important, even if it does not resonate immediately on the federal stage and even if it is one of a number of issues that prove important going forward.

Climate change will have importance at state and local agencies in certain local politics. In all of this uncertainty, the way forward is not readily clear. We are already seeing the impacts of climate change and will continue to do so; the main questions surround the severity of those impacts, whether we are prepared for these impacts, and how we will deal with them.

In all of this, the one thing I can say with certainty is that involvement matters. The fact that we are facing dire political challenges in the face of dire challenges in society and our environment is not a reason to check out, but rather, it is a reason to check in. We need people who care, people who are alarmed by what they are seeing, and people who feel upset about our direction to try to change things. We owe that to ourselves, those we care about, those who will come after we are gone, and those without a voice to do what we can. Individual action adds up. The more who try to lift this burden off of us, the more likely we indeed succeed.

IV. CONCLUSION

During President Trump's first year in office, it has become apparent that his administration is set on institutionalizing climate denialism. President Trump has filled vital federal posts with numerous climate change skeptics and has attempted to reverse nearly all of President Obama's policies aimed at protecting the environment. For those concerned with climate change, this first year gives a bleak blueprint for what will come in the remaining three years of President Trump's first term and possibly four more years after that. However, there is hope that the market in general and state and local governments will be able to continue the fight against climate change. Ultimately, climate change, along with all the other issues currently facing the U.S., will likely result in drastic changes in both the Republican and Democratic parties similar to shifts that have occurred in the past. What those changes will look like and what the future of American politics will be are yet to be seen, but undoubtedly the events of the past year will be seen as catalysts for those changes.