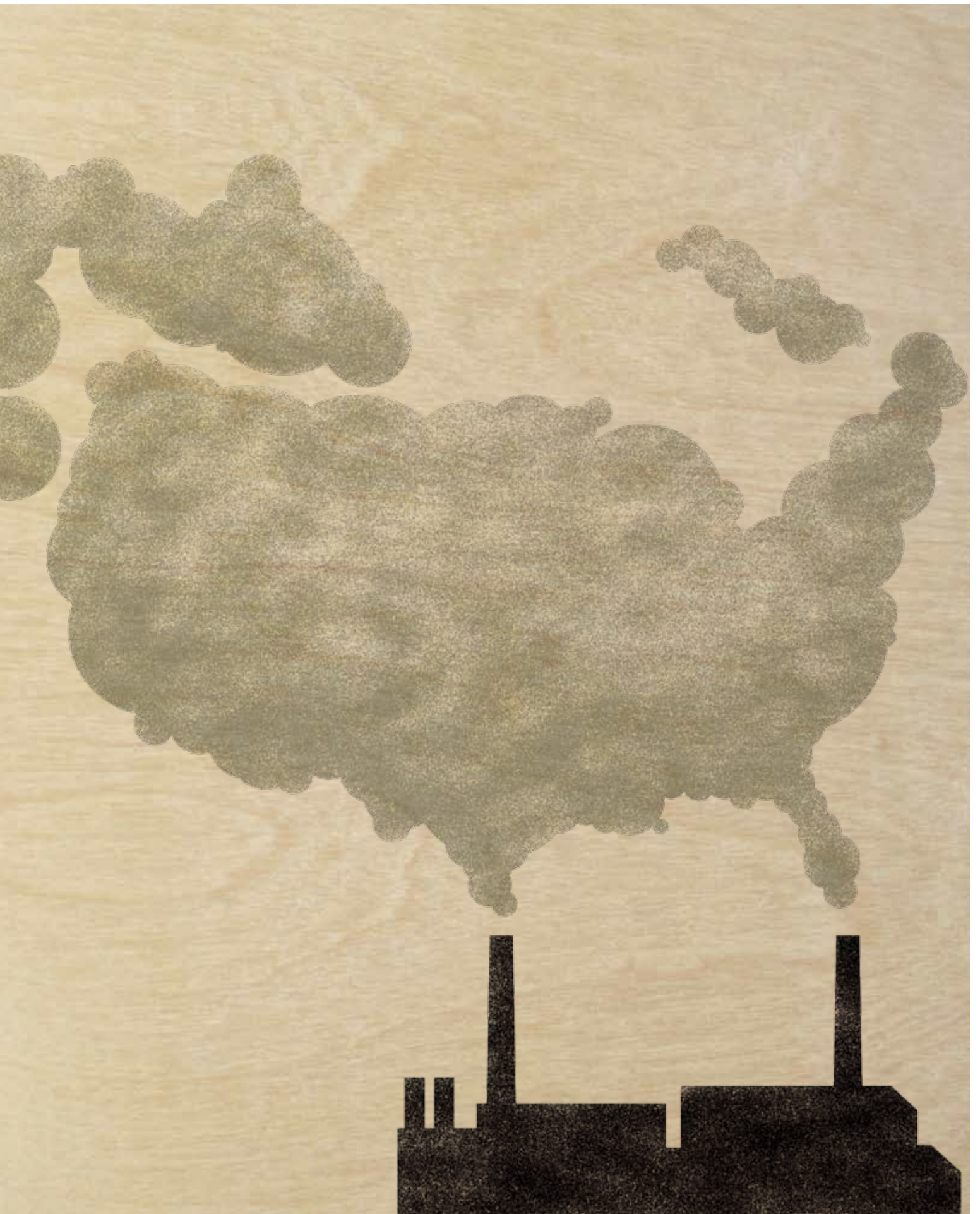


ENVIRONMENTAL FEDERALISM:

INDIVIDUAL STATES, CITIES, AND BUSINESSES VOW TO COMBAT CLIMATE CHANGE

by ALLISON H. ROSS and MEGHAN V. BROWN

Shortly after the G-7 Summit and amid global discussions regarding climate change, President Trump confirmed that the United States will be withdrawing from the Paris Agreement. This withdrawal presents a unique issue of federalism as it relates to environmental policies, regulations, and actions to reduce global climate change: now that the United States has withdrawn from the Paris Agreement, what powers do states, cities, and businesses have to commit to the objectives of the Paris Agreement as individual entities?



First introduced in late 2015 under the United Nations Framework Convention on Climate Change (UNFCCC), the Paris Agreement is a voluntary global accord to combat climate change and adapt to its effects while simultaneously supporting developing countries with these efforts. The Paris Agreement's current objective is to keep the global temperature from rising over two degrees Celsius from 2005 levels.

The Paris Agreement is voluntary and self-enforced. All 195 participating countries are responsible for establishing and reporting their own emission goals and their proposed implementation strategies. Nationally Determined Contributions (NDCs) should reflect the country's "best efforts" and are expected to change and strengthen over time. There is no protocol or precedent for a country to submit new NDCs that reduce the country's obligations. Although the Paris Agreement has a clear objective and a structured reporting system, the UNFCCC does not have punitive or enforcement authority if a country does not meet its NDC goal. If the United States were to remain a party to the Paris Agreement and submit a new NDC with weaker objectives, there would be no possible sanction from the UNFCCC.

The United States' initial NDC objective, established under the Obama Administration, was to reduce greenhouse gas emissions by 26–28% from 2005 levels by 2025. The submission cites The Clean Air Act (1970), the Energy Policy Act (2005), and the Energy Independence Security Act (2007), with emphasis on the Clean Power Plan and regulations on passenger vehicle emissions, as the existing relevant regulatory actions to achieve this goal.

Importantly, the Trump Administration has repealed the Clean Power Plan, the first of potentially many federal actions undermining the goals of the Paris Agreement. President Trump's decision to withdraw from the Paris Agreement also accompanied an

announcement to cancel any further contributions to the Green Climate Fund, another mechanism under the UNFCCC. The Green Climate Fund pays for climate investment in developing countries through contributions from thirty-seven industrialized countries and the European Union. Aimed at encouraging clean energy projects, lowering emissions, and aiding climate change adaptation in developing countries, the Green Climate Fund's goal is to mobilize a *combined* \$100 billion by 2020. The United States pledged \$3 billion to the Fund as of January, before President Trump took office, and has sent \$1 billion to date. If the original \$3 billion pledge were to remain in place, the total contribution

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would be about \$9.50 per capita by 2020. The original pledge was made by Executive Order by President Obama, without legislative approval; therefore, President Trump does not need the Senate's approval to reverse the nation's commitment to the pledge.

"We Are Still In" Campaign

Due to President Trump's withdrawal decision—which is potentially meaningless, as the Paris Agreement does not take effect until 2020—the country *as a whole* will no longer be a formal party to the Paris Agreement. Leaving this agreement makes the United States an outlier in the global community which could affect its multinational businesses. However, this decision does not leave

the states powerless. In opposition to President Trump's decision to withdraw as a country, a number of states, cities, and companies signed a "We Are Still In" campaign, vowing to individually adhere to the Paris Agreement. Though they are not formal parties to the Paris Agreement, the campaign's signatories promise to hold global warming to below two degrees and accelerate the transition to a clean energy economy. As of Tuesday, June 6, 2017, 143 cities, 218 universities and colleges, 1069 businesses, and 9 states have joined the rapidly growing campaign.¹

The campaign hosted its first press call on June 6th.² Featuring a variety of sub-national leaders and a public Q & A, the press call demonstrated that despite federal disapproval, individual entities such as states and cities are committed to combatting climate change. Some highlights of the call include comments by Kate Brown, Governor of Oregon, who declared that "Americans still believe in the Paris Agreement." Chancellor Tim White, representing California State Universities, described a multitude of the Universities' ambitious clean energy goals, and shared his confidence that the county will be able to reach the Paris Agreement objectives with or without the official federal NDC. Scott Deitz, Vice

President of Public Affairs for VF Corporation (owner of Vans, The North Face, Nautica, and Timberland, among others) said that the company has been supportive of the Paris Agreement since day one. VF has made a public pledge to reach 100% renewable energy usage by 2025.

A spokesperson for Bloomberg Philanthropies effectively summarized the message of the call in his statement: "When the White House drops the ball, the rest of America is picking it up and running with it."³ He explained that Bloomberg Philanthropies is working to create and submit what will be called a "societal NDC" to the UNFCCC. Though there is not a method for subnational organizations to formally become a party to the UNFCCC, the UN Secretariat

has communicated that it will consider other ways to involve subnational groups in the future. Michael Bloomberg hopes that this will encourage more “societal NDCs” and further commitment from around the country.

The state of Hawaii became the first state to pledge its commitment to climate change goals when the governor signed two bills that align the State’s environmental standards with the Paris Agreement: Senate Bill 559 (which “ensure[s] statewide support for Hawaii’s green initiatives” and formally commits to the Paris Agreement’s objective to reduce greenhouse gas emissions statewide) and House Bill 1578 (which creates a task force to help keep Hawaii’s soil and air clean).⁴ These bills further supplement Hawaii’s existing goal to use 100% renewable energy by 2045. Other states are implementing climate goals that are as, or even more, ambitious than the United States’ original NDC. For example, governors of California, New York and the State of Washington created the United States Climate Alliance, a coalition of states committed to the Paris Agreement as well as well as meeting the standards of the Clean Power Plan.⁵ As of June 9, 2017, eleven states, Washington, D.C., and Puerto Rico have joined this alliance, representing 36% of the United States’ population.⁶

Even local governments are participating. The Mayors National Climate Action Agenda, founded by Los Angeles Mayor Garcetti, is a group of 307 mayors promoting “tangible local-level action” to adhere to the Paris Agreement.⁷ Member mayors share their best practices and city targets to create change from this subnational level.⁸

In addition to city, state, and university support, companies ranging from major retailers to car manufacturers, and even leaders of oil companies, stand in support of remaining in the Paris Agreement. In a series of unprecedented votes, shareholders from ExxonMobil, Occidental Petroleum, and PPL Corp. approved proposals requiring the companies to disclose the effects of climate change on its business and its actions to address them. Other shareholder votes at utility companies received high approval

for similar resolutions, but fell short of a full majority: Dominion Resources (47.8%), Duke Energy (46.4%), and DTE Energy (45%). Both ExxonMobil and Chevron CEOs spoke out in support of the Paris Agreement, along with BP, Conoco Phillips, Royal Dutch Shell, and major investor BlackRock. The National Congress of American Indians and the Native American Rights Fund also released statements pledging their commitment.

The President’s decision to withdraw from the Paris Agreement highlights the role of local governments and business leaders in environmental protection. This environmental “battle” between the federal government and the states, cities, and businesses to uphold environmental responsibility is likely to continue for the foreseeable future. Businesses in California should be aware of the rapidly growing list of companies that are pledging to be more environmentally conscious, setting reusable energy goals, and investing in climate change research in order to maintain or grow their own consumer base.

ENDNOTES

(1) Yessenia Funes, *U.S. Politicians, Businesses and Higher Education Officials Form Coalition to Oppose Trump’s Paris Agreement Decision*, Color Lines (June 6, 2017), <https://www.colorlines.com/articles/us-politicians-businesses-and-higher-education-officials-form-coalition-oppose-trumps-paris>. For a complete list of signatories, visit: <http://wearestillin.com/>.

(2) Meghan Brown attended the “We Are Still In” press call on Tuesday, June 6th, at 8:00 a.m. The quotes in this paragraph reflect notes taken during the call.

(3) Meghan Brown attended the “We Are Still In” press call on Tuesday, June 6th, at 8:00 a.m. The quotes in this paragraph reflect notes taken during the call.

(4) Dom Galeon, *Blazing a Trail: Hawaii Becomes the First U.S. State to Commit to the Paris Climate Accords*,

Futurism (June 8, 2017), <https://futurism.com/blazing-a-trail-hawaii-becomes-the-first-u-s-state-to-commit-to-the-paris-climate-accords/>.

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(6) Leanna Garfield & Skye Gould, *This Map Shows Which States Are Vowing to Defy Trump and Uphold the US’ Paris Agreement Goals*, Business Insider (June 9, 2017), <http://www.businessinsider.com/us-states-uphold-paris-agreement-2017-6>.

(7) *Paris Agreement Adoption Toolkit for US Cities and Municipalities Participating in the Climate Mayors Network*, Climate Mayors (June 2, 2017), <http://climatemayors.org/get-involved/city-officials/>.

(8) *Climate Action Plans: Our Sustainability and Climate Action Plans*, Climate Mayors (last visited June 25, 2017), <http://www.climate-mayors.org/climate-action-plans/>.

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