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Introduction

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INTRODUCTION

Kalyani Robbins*

It is with great pleasure that we publish this exceptional collection of articles addressing a critical issue of this time: how might we compensate at other levels of government (or with private action) for the shortcomings of a presidential administration that is guided by the economic interests of environmentally destructive industries. On October 20, 2017, FIU College of Law had the privilege of hosting the authors of these works at a symposium titled “Environmental Federalism in the Trump Era: Rescuing the Environment, Resources, and Climate.” We asked them to be creative, welcoming their ideas for preventing catastrophic losses to our natural environment under Trump’s watch, confident that their expertise would yield great results. We were not disappointed, and now share the impressive outcome of this endeavor.

Rebecca Bratspies’s article, *Protecting the Environment in an Era of Federal Retreat*,¹ discusses the rollbacks of the Trump Administration to this point in his term and then considers actions that cities can take on their own, in the absence of federal oversight and regulation, to protect the environment and combat climate change. Professor Bratspies focuses largely on New York City.² She outlines the many steps the city has taken to decrease its carbon footprint, arguing that New York City has made itself an example and leader in the global push to combat climate change from the local level up.³ She concludes, however, that cities, even one as large and influential as New York City, cannot solve climate change alone and must get federal buy-in to effect lasting change.⁴

Jessica Owley’s article, *Taking the Public out of Public Lands*,⁵ examines how coal-extraction policies are changing under the Trump administration. She begins by discussing the control of natural resources in the context of federalism, tracing the changes and history of federal coal-leasing policy

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¹ Rebecca Bratspies, *Protecting the Environment in an Era of Federal Retreat: The View from New York City*, 13 *FIU L. REV.* 5 (2018).

² *Id.* at 11–12.

³ *Id.* at 15–27.

⁴ *Id.* at 11, 38–39.

⁵ Jessica Owley, *Taking the Public out of Public Lands: Shifts in Coal-Extraction Policies in the Trump Administration*, 13 *FIU L. REV.* 35 (2018).

under the Obama and Trump administrations.⁶ With these patterns outlined, she then discusses the Trump administration's policy of shifting more resources to local control.⁷ Professor Owley argues that the Trump Administration is shifting the federal government's role from one of protecting the public lands on behalf of the public to a more limited federal role that pushes more decision-making power to the states.⁸

Brigham Daniels' article, *Come Hell and High Water*,⁹ outlines where we are so far with climate policy, where we are going, and where we might end up at the end of the Trump administration. Professor Daniels begins by outlining Trump's personal positions on climate science and the steps he has taken thus far, in terms of policies and appointments, to put his positions into practice.¹⁰ He then outlines the bright spots in global and domestic climate policy that can counteract, at least in part, what the Trump administration is trying to do.¹¹ Professor Daniels concludes with the proposition that climate-related policy positions will remain a factor in future elections and those elections will ultimately shape the steps the U.S. takes to defend the environment in the future.¹²

Tracy Hester's article, *Climate Tort Federalism*,¹³ examines the challenges that climate-tort-claim plaintiffs face and explores how federal judicial principles can help organize and structure emerging state law that governs state-level climate-tort claims. He begins with an analysis of federal common law climate-tort claims that have been unsuccessful, considering the causes for these failures.¹⁴ He then explains how climate-tort claims under state law will pose challenges to the existing allocation of power between federal and state courts.¹⁵ Finally, after considering these problematic jurisdictional and procedural rules, Professor Hester concludes by suggesting how best to use judicial federalism principles when resolving the challenges posed by state law climate-torts.¹⁶

⁶ *Id.* at 44–63.

⁷ *Id.* at 37–44.

⁸ *Id.* at 58–63.

⁹ Brigham Daniels, *Come Hell and High Water: Climate Change Policy in the Age of Trump*, 13 FIU L. REV. 65 (2018).

¹⁰ *Id.* at 66–71.

¹¹ *Id.* at 71–76.

¹² *Id.* at 76–77.

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

¹⁴ *Id.* at 83–91.

¹⁵ *Id.* at 93–98.

¹⁶ *Id.* at 100–01.

Brett Birdsong's article, *The Grid and the Grouse*,¹⁷ explores the human disruption of natural habitats. He reviews and analyzes two habitat conservation initiatives started by the Obama administration that required specific joint legal and policy cooperation between the federal government and the states.¹⁸ These initiatives have, surprisingly, remained mostly unchanged to this point in the Trump administration.¹⁹ Professor Birdsong concludes by questioning whether these initiatives (and others like them) will survive the Trump administration in spite of the trend of rolling back conservation efforts.²⁰

While that concludes the content of this symposium edition, I encourage all who read it to keep it going. This is a time in which we cannot rest. We need all hands on deck. In the months following the live symposium the Trump Administration kept going at a rapid pace with its rollback agenda, even gutting endangered species regulations in place for four decades. Many people are fighting for better leadership, and we in the world of environmental conservation must also work hard to find other ways to prevent irreversible loss in the meantime. State and local governments are stepping up to protect what the President will not, and setting examples for the future. We, as academics must continue to feed them our ideas.

¹⁷ Bret Birdsong, *The Grid and the Grouse: Cooperative Federal-State Conservation Planning in the Ages of Obama and Trump*, 13 FIU L. REV. 103 (2018).

¹⁸ *Id.* at 105.

¹⁹ *Id.*

²⁰ *Id.* at 131–34.