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Solar panels cover the roof of a Sam's Club store in Glendora, Calif. DAVID MCNEW/GETTY IMAGES

POLITICS

In the Face of a Trump Environmental Rollback, California Stands in Defiance

For decades, California has been at the forefront of U.S. environmental policies. Now, with the Trump administration poised to attack environmental and climate regulations, California is ready to play a key role in resisting Washington's hard right turn.

BY JACQUES LESLIE · FEBRUARY 21, 2017

As environmental standard-bearer and green technology pioneer, no other state rivals California.

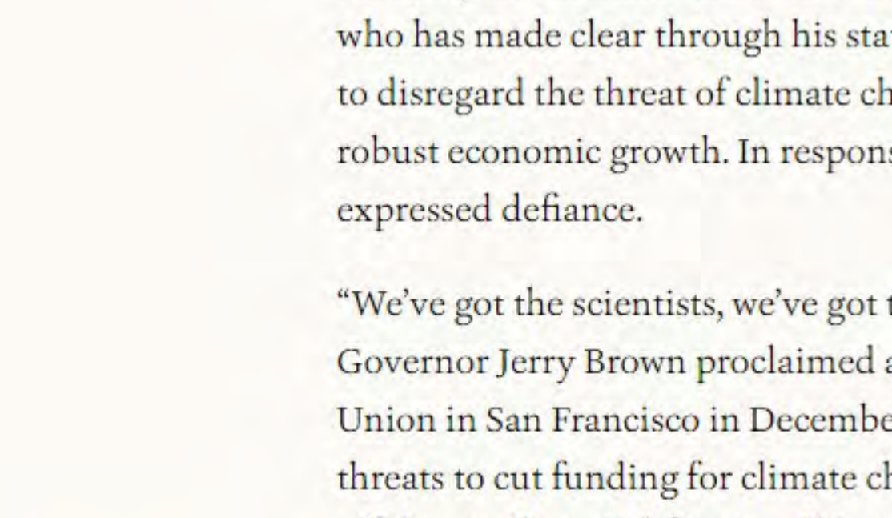
More than two decades before the U.S. Congress passed the Clean Air Act, California became the first state to enact air pollution legislation, in 1947. The state's Air Resources Board, widely considered the most powerful air pollution regulatory agency in the world, has used its authority to prod hybrid and electric cars into widespread commercial use. Spurred by the nation's strongest and most innovative building code, new buildings in California now use about 75 percent less energy than pre-code buildings, and have saved enough energy to head off construction of the equivalent of seven 500-megawatt natural gas-fired power plants.

California is the only state with its own greenhouse gas emissions cap-and-trade program, which earned it about $2.5 billion in revenue from emissions permits last year. Spearheaded by its thriving Silicon Valley technology industry, the state has led the nation in generating inventions for electric and self-driving cars and a "smart" electricity grid, which are helping create a renewables-based economy.

"California plays an incredibly important role as a pathfinder that plots out the course for the energy transition, climate change, and the environment in general," said Jules Kortenhorst, the CEO of the Rocky Mountain Institute, a Colorado-based energy think tank.

All this puts the state on a collision course with President Donald J. Trump, who has made clear through his statements and appointments that he is ready to disregard the threat of climate change and stress fossil fuels as a path to robust economic growth. In response, California's leaders, all Democrats, have expressed defiance.

"We've got the scientists, we've got the lawyers, and we're ready to fight," Governor Jerry Brown proclaimed at a meeting of the American Geophysical Union in San Francisco in December. Then, referring to Trump administration threats to cut funding for climate change research, Brown said, "If Trump turns off the satellites, California will launch its own damn satellite!"



California Governor Jerry Brown speaks at the Governor's Conference on Extreme Climate Risks and California's Future in December 2011. JUSTIN SULLIVAN/GETTY IMAGES

What's at stake in this face-off is California's ability to maintain its own relatively rigorous environmental laws and regulations as the Trump administration loosens environmental provisions at the federal level. Implicit in the battle is a striking reversal of roles, in which environmentalists who once championed federal power over states now support states' rights, while Trump appointees who once argued for states' rights consider how to squelch California's renegades. Neither side is likely to emerge with an all-out victory: While the Trump administration may use budget cuts, deregulation, and legislative pruning to box in the state, experts say, it has no way to prevent California from continuing on an independent path in key environmental domains.

As it happens, many California environmentalists regard the environmental record of their new de facto spokesman, Governor Brown, as mixed, largely because of his support for fracking – the state is the nation's fourth-largest oil producer – and water projects that benefit agricultural interests at the expense of rivers and estuaries. Nevertheless, they welcome his emergence as the Democrats' leading advocate for responsible climate change policies. "I think Jerry Brown is genuinely interested in environmental protection, and I think he will be a leader in pushing back the assault on environmental policies," said Gary Bobker, director of the rivers and delta program at the San Francisco-based Bay Institute.

Last month, the state legislature hired Eric Holder, President Barack Obama's attorney general from 2009 to 2015, to represent it in expected legal battles against the Trump administration. California now seems poised to play the role that Texas performed during the Obama administration, when Texas sued the federal government at least 48 times. More than half of those suits dealt with climate change and air and water quality. "I go into the office, I sue the federal government, and I go home," then-Texas attorney general and now-governor Greg Abbott famously said in 2013. California's attorney general, Xavier Becerra, who was appointed by Brown last month, sounded distinctly Abbott-like in a statement he directed at Trump in December: "If you want to take on a forward-leaning state that is prepared to defend its rights and interests, then come at us."

California's policies drive technological change in the transportation sector, not just nationally, but internationally.

The Trump administration's greatest point of leverage against California's environmental policies is the air pollution waiver given to the state in the 1970 Clean Air Act. The waiver acknowledged the state's severe smog problem and the precedent-setting car emissions regulations California devised to reduce air pollution by allowing the state to establish more stringent standards than the federal government's. Since then, a dozen other states have agreed to follow California's emissions policies, which means that about 40 percent of American cars are covered by its rules. That number is so large that car manufacturers generally design all their vehicles to meet California standards instead of producing one model for California regulations and another for federal ones. The result is that California's policies drive technological change in the transportation sector, not just nationally, but internationally.

Beginning with model year 1969, the federal government has granted California waivers for new vehicle emissions standards more than a hundred times, regardless of which party occupied the White House. But statements by Trump's new administrator of the Environmental Protection Agency, Scott Pruitt, at his confirmation hearing last month suggest that California's waiver is in jeopardy. Invited by California Sen. Kamala Harris to commit to upholding the waiver, Pruitt said instead that he "would not want to presume the outcome" of a review of the policy. His refusal to endorse the waiver is particularly striking given that as Oklahoma's attorney general, beginning in 2010, he was an outspoken advocate for states' rights and even established a "federalism" unit that opposed federal energy and environmental laws.

If Pruitt decides to revoke California's existing waiver, which covers all vehicles manufactured through 2025, he would have to argue that California has no need to regulate greenhouse gas emissions, which would almost certainly trigger a long legal battle. The only way Pruitt could avoid such a battle would be to persuade Congress to revoke the provision of the Clean Air Act that established the state's waiver right in the first place. Given Republican domination of the current Congress, that change is certainly conceivable, though it would meet vociferous Democratic – and perhaps even some Republican – resistance.

The Trump administration could also seize on a California policy it opposes, such as the state's opposition to immigrant deportation, to justify cutting federal funding to the state, creating a budget crisis that would hinder California's ambitious energy programs. Trump threatened such cuts earlier this month in response to proposed state legislation prohibiting state and local law enforcement officials from upholding federal immigration laws. "If we have to, we'll defund," Trump told Fox News interviewer Bill O'Reilly. "We give tremendous amounts of money to California. California in many ways is out of control." But using such a blunt weapon to punish the state could threaten California's economy, the sixth largest in the world, and could impede the vast economic expansion that Trump has promised his policies will deliver.

The Trump administration could hamstring California's energy programs by cutting funding for a broad range of federal energy programs that support national laboratories, universities, and private companies. If, for example, the U.S. Department of Energy decides to cut funding for energy efficiency, California's Lawrence Berkeley National Laboratory, which focuses on energy-efficient technology, might be vulnerable. Or the administration could cut the Energy Department's loan guarantee program, known for funding the failed solar company Solyndra, but also instrumental in the success of many other companies, including Tesla, the electric car and energy storage manufacturer based in Palo Alto.

The administration could also reduce or eliminate the federal tax credit system for renewable energy, but that would risk opposition from a number of Republican-controlled states that benefit from it. Republican Sen. Chuck Grassley of Iowa said last year that if Trump tries to cut the wind energy tax credit, "He'll do it over my dead body." Iowa produces one-third of its electricity from wind power and is the nation's third- leading generator of wind energy; California is second.

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'Everyone talks about red states and blue states. We have to start talking about green states and brown states.'

Iowa's example indicates the obstacles the Trump administration could encounter if it tries to weaken support for renewable energy. "Everyone talks about red states and blue states," said Hal Harvey, CEO of Energy Innovation, a San Francisco-based policy research group. "We really have to start talking about green states and brown states. There are about a dozen states" – many of them in Republican control – "with very strong renewable portfolio standards and very strong utility energy efficiency programs, and utilities are going to be the prime movers in building the electric vehicle charging infrastructure."

California's cap-and-trade program, presumably a lightning rod for the Trump administration's disapproval, faces no threat from the federal government, since it is not dependent on federal approval. On the other hand, a lawsuit brought in 2012 by the California Chamber of Commerce has put the program in some jeopardy. The suit argues that the program's fees amount to taxes, and according to state law, tax provisions must be passed by a two-thirds majority of the legislature, a threshold the cap-and-trade legislation did not meet. But Democrats currently enjoy two-thirds majorities in both the state Senate and Assembly, and so could likely meet the tax vote requirement with new legislation.

In most other respects, California and other states can carry out their environmental and energy policies regardless of the Trump administration's actions. In part that's because utilities, which are at the heart of the clean-energy transition, traditionally are under state, not federal, control. As Ralph Cavanagh, co-director of the Natural Resource Defense Council's energy program, explained, "Renewables, energy efficiency, and the most important climate policy solutions going forward in the United States today are under the authority of state officials. The capital investment for clean energy isn't coming from the federal government – it's coming from the budgets of publicly owned and investor-owned utilities."

Perhaps most notably, California will be able to continue on its ambitious path of reductions in greenhouse gas emissions. The state's Global Warming Solutions Act of 2006, signed into law by a Republican governor, Arnold Schwarzenegger, set in place regulations and market mechanisms to lower California's emissions to 1990 levels by 2020. Not only is the state on schedule to meet that goal, but last year the legislature approved a new, far tougher target, requiring an additional 40 percent cut below 1990 levels by 2030.

California is reorganizing its electricity grid and has become a testing ground for developing renewable energy.

On top of that, the state is carrying out a pioneering reorganization of its electricity grid, and in the process has become a test ground for developing renewable energy. The California Public Utilities Commission has directed the state's utilities to develop demonstration projects with smaller companies that use local energy resources such as rooftop solar, batteries, and smart water heaters and thermostats, thereby avoiding the need for major infrastructure investments in things like new substations and transmission lines.

The state is also expanding its grid market to neighboring states to increase the grid's flexibility during times of production overcapacity. For example, daily electricity demand increases in Arizona when people get home from work, a time when California may have an overabundance of renewable energy that it could sell to Arizona. Because the sun sets in the two states at different times, peak electricity demand in Arizona (near the end of the day) may overlap with peak solar production in California (near the middle of the day).

Even as California faces regulatory headwinds from the Trump administration, it is riding strong economic and technological tailwinds that favor its goals of weaning its economy off fossil fuels. The administration seems bent on one last lucrative gulp at the fossil fuel trough. But as climate change intensifies, the desirability of fossil fuel use probably will continue to decline, and in any case, the steadily dropping cost of renewable energy will make it increasingly likely that wind energy, solar power, and other renewables will gradually supplant fossil fuels. In that case, California will be in prime position to reap the benefits of its policies.

Jacques Leslie is a regular *Los Angeles Times* op-ed contributor. His book on dams, *Deep Water: The Epic Struggle Over Dams, Displaced People, and the Environment*, won the J. Anthony Lukas Work-in-Progress Award for its "elegant, beautiful prose." He recently published an ebook, *A Deluge of Consequences*, that portrays a project in Bhutan to counter flooding caused by climate change. MORE →

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