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ENVIRONMENTAL LAW IN THE TRUMP ADMINISTRATION

*Robert V. Percival**

The election of Donald J. Trump to be the 45th President of the United States understandably horrified environmentalists. During his campaign for the presidency, Trump vowed to abolish the U.S. Environmental Protection Agency (“EPA”) and he pledged to kill EPA’s most significant new initiatives to control air and water pollution.¹ Calling climate change a “hoax,” Trump promised to “cancel” the Paris Agreement that established a new framework for global efforts to respond to this problem.²

While it is too early to predict with confidence how environmental law will fare in the Trump administration, it is clear that it will be markedly different than it would have been if Hillary Clinton had been elected President. But because Trump truly is a Washington outsider who is beholden to neither of the two major political parties, he actually may have an opportunity to craft reforms that benefit both business and the environment. Whether or not he actually will do so is anyone’s guess.

Reform, But Do Not Abolish, EPA

First, President Trump must realize that while he embraced the Tea Party’s extreme, anti-EPA rhetoric during the campaign, he did not receive a mandate to gut America’s environmental safety net. His principal opponent won the popular vote by more than 2.2 million votes.³ Trump’s victory in the Electoral College was aided by his extravagant promises to rust belt and coal-state voters, but very few of even Trump’s most ardent supporters want to see the U.S. experience the kind of air and water pollution problems that plague China

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¹ Heather Harddon, *Donald Trump Vows to Slash Funding for Education, EPA*, THE WALL STREET J. (Jan. 11, 2016, 5:25 PM), <http://www.wsj.com/articles/donald-trump-vows-to-slash-funding-for-education-epa-1452551107>.

² Benjy Sarlin, *Donald Trump Pledges to Rip Up Paris Climate Agreement in Energy Speech*, NBC NEWS (May 26, 2016, 5:13 PM), <http://www.nbcnews.com/politics/2016-election/donald-trump-pledges-rip-paris-climate-agreement-energy-speech-n581236>.

³ Johnathan Vankin, *Popular Vote Gap Surges Past 2.2 Million For Hillary Clinton—Donald Trump Least Popular Winner In 192 Years*, YAHOO! (Nov. 27, 2016), <https://www.yahoo.com/news/popular-vote-gap-surges-past-061657919.html>.

today.⁴ Air pollution is estimated to kill 1.6 million Chinese every year and it is so bad at times that airports, schools and factories have to be shut down.⁵ In a meeting with editors of the *New York Times* on November 22, President-elect Trump stated, “Clean air is vitally important. Clean water, crystal clean water is vitally important.”⁶ Trump should appoint an EPA administrator who shares these sentiments and back off from his previous pledge to shut down EPA.

There is no shame from on-the-job learning, as previous presidents have done. During his 1992 presidential campaign, Arkansas governor Bill Clinton pledged to reduce the size of the White House staff by 25 percent.⁷ To partially fulfill this pledge, Clinton announced shortly after taking office that he was abolishing the Council on Environmental Quality (“CEQ”), a tiny agency located in the Executive Office of the President. He did not appreciate that this required an act of Congress because CEQ was established by the National Environmental Policy Act. He did not comprehend that the tiny agency had bipartisan support for its highly regarded work helping other federal agencies comply with environmental impact assessment requirements. Ultimately, Clinton’s effort to abolish CEQ failed.⁸

President Trump does not have the authority to abolish EPA by executive fiat; only Congress can do so by enacting new legislation. EPA was created in 1970 by an executive order issued by President Nixon pursuant to the Reorganization Act of 1949. That Act was amended in 1977 and 1984 to require express congressional approval before an agency like EPA can be abolished.⁹ If Trump were foolish enough to seek legislation to abolish EPA, Democrats in the Senate, who increased their numbers to 48, can use the filibuster to block such a radical move. On November 23, Sean Spicer, a

⁴ *Trump Victory Deals Blow to Global Fight Against Climate Change*, BLOOMBERG NEWS (Nov. 9, 2016, 2:22 PM), <https://www.bloomberg.com/news/articles/2016-11-09/trump-victory-seen-undermining-u-s-lead-on-pollution-fight>.

⁵ Sarah Kaplan, *Air Pollution in China is Killing 1.6 Million People a Year, Researchers Say*, THE WASH. POST (Aug. 14, 2015), https://www.washingtonpost.com/news/morning-mix/wp/2015/08/14/air-pollution-in-china-is-killing-1-6-million-people-a-year-researchers-say/?utm_term=.27a445d4186b.

⁶ Thomas L. Friedman, *At Lunch, Donald Trump Gives Critics Hope*, THE N.Y. TIMES (Nov. 22, 2016), http://www.nytimes.com/2016/11/22/opinion/at-lunch-donald-trump-gives-critics-hope.html?_r=0.

⁷ David Lauter, *President to Cut Staff at White House: Spending: About 350 Jobs to be Slashed, Aides Say. Janet Reno, Florida Prosecutor, is Considered for Attorney General*, LOS ANGELES TIMES (Feb. 10, 1993), http://articles.latimes.com/1993-02-10/news/mn-1337_1_most-white-house.

⁸ Frederick W. Stoss, *Environmental Quality: A Great Disappearing Act*, ELECTRONIC GREEN J. (Dec. 2003), <http://www.srcosmos.gr/srcosmos/showpub.aspx?aa=6138>.

⁹ *EPA History*, U.S. ENVTL. PROTECTION AGENCY (last visited Dec. 9, 2016), <https://www.epa.gov/history>.

spokesperson for Trump's presidential transition team, stated that Trump had no plans to eliminate federal agencies.¹⁰ This at least is a hopeful sign.

Appoint Agency Officials Who Care About Environmental Protection

Nearly all the nation's federal environmental laws were enacted during the 1970s by overwhelming, bipartisan majorities in Congress. When President Reagan took office in 1981 he moved aggressively to roll back some of these laws and appointed agency heads actively hostile toward their implementation. This generated a strong public backlash that resulted in the laws being significantly strengthened by Congress during the 1980s.¹¹

Like Trump, President Reagan had campaigned against environmental regulation. In the days before Twitter existed, Reagan opined that "trees cause more pollution than automobiles," spawning protesters in tree costumes carrying signs saying, "Cut us down before we kill again."¹² Reagan appointed people widely perceived to be anti-environmental to top positions in EPA and the Department of Interior. They waged ideological wars against environmental protection that ended in scandals and forced resignations. A top EPA official was sent to jail for lying to Congress after attempts to cover up political manipulation of the new Superfund program fell apart.¹³

To his credit, Reagan responded to these scandals by bringing back William Ruckelshaus, EPA's first leader during the Nixon administration, to restore the agency's credibility. He also fired Interior Secretary James Watt after he exulted that the members of a federal advisory committee overseeing efforts to expand coal leasing included "a black, a woman, two Jews and a cripple."¹⁴ In today's coarser political discourse, Watt's comments might have gone unnoticed, but they were the last straw for an agency head who had inflamed public opinion through his aggressively anti-environmental policies

¹⁰ Arden Farhi, *Will Donald Trump Shut Down any Federal Agencies?*, CBS NEWS (Nov. 23, 2016, 1:54 PM), <http://www.cbsnews.com/news/will-donald-trump-shut-down-federal-agencies/>.

¹¹ Jamie Fuller, *Environmental Policy is Partisan. It wasn't Always.*, THE WASH. POST (June 2, 2014), https://www.washingtonpost.com/news/the-fix/wp/2014/06/02/support-for-the-clean-air-act-has-changed-a-lot-since-1970/?utm_term=.ee2b64efc637.

¹² Mark Shields, *Mark Shields: A Little Perspective, Please.*, CNN (Dec 29, 2003, 2:32 PM), <http://www.cnn.com/2003/ALLPOLITICS/12/29/column.shields.opinion.perspective/>.

¹³ See JONATHAN LASH, KATHERINE GILLMAN & DAVID SHERIDAN, *A SEASON OF SPOILS: THE REAGAN ADMINISTRATION'S ATTACK ON THE ENVIRONMENT* (1984).

¹⁴ Steven R. Weisman, *Watt Quits Post; President Accepts with "Reluctance"*, THE N.Y. TIMES (Oct. 10, 1983), <http://www.nytimes.com/1983/10/10/us/watt-quits-post-president-accepts-with-reluctance.html?pagewanted=all>.

(and for not letting the Beach Boys perform during a Fourth of July celebration on the National Mall).

The Reagan administration's experience demonstrates the importance of choosing agency heads who will command bipartisan respect. There are plenty of conservatives who care about the environment whose appointments will not mire their agencies in ideological wars. President George W. Bush understood this when he selected New Jersey Governor Christie Todd Whitman to be his first EPA administrator. However, he let Vice President Richard Cheney undermine her authority when crucial environmental decisions were made. Few remember that during the 2000 presidential campaign Governor Bush promised in a major energy speech on September 29, 2000, that, if elected, he would ask Congress to adopt new legislation to limit emissions of CO₂, the most ubiquitous greenhouse gas.¹⁵ Shortly after President Bush took office, Whitman, after confirming that Bush stood by his pledge, told a gathering of the world's environmental ministers on March 4, 2001 in Trieste that Bush would act to control U.S. emissions of greenhouse gases. However, when Whitman arrived back in Washington, she learned that, at the behest of Vice President Richard Cheney, Bush had repudiated his pledge on March 13, 2001.¹⁶

In its eagerness to shift gears on climate change, the George W. Bush administration made a huge strategic error when it officially denied a long-standing petition to use the Clean Air Act to control greenhouse gas emissions. This opened the courthouse door to environmentalists and led to the U.S. Supreme Court's landmark *Massachusetts v. EPA* decision. By a 5 to 4 vote the Court held that the EPA does have the authority to regulate greenhouse gas emissions under the Clean Air Act.¹⁷ The Court held that EPA's reasons for failing to regulate greenhouse gas emissions were based on factors not relevant under the Clean Air Act and it mandated that EPA determine whether such emissions endanger public health or welfare.

Through his political appointments President Trump can profoundly change EPA. But if he puts fierce opponents of protecting the nation's environment and natural resources in charge of the environmental agencies, he

¹⁵ See BARTON GELLMAN, ANGLER: THE CHENEY VICE PRESIDENCY 82, 83 (2008).

¹⁶ Letter from President George W. Bush to Senator Hagel, Helms, Craig and Roberts, THE WHITE HOUSE (Mar. 13, 2001), <https://georgewbush-whitehouse.archives.gov/news/releases/2001/03/20010314.html>.

¹⁷ *Massachusetts v. EPA*, 549 U.S. 497 (2007).

is likely to accomplish far less than if he appoints respected conservatives who care about the environment.

Pursue Even-Handed Regulatory Reform Rather than Windfalls for Crony Capitalists

Like Presidents Reagan and George W. Bush, President-elect Trump will enter office after campaigning against environmental regulation. But, as noted above, the anti-regulatory zeal of the Reagan and Bush appointees often backfired and spawned even more onerous regulations. For example, President Reagan appointed a Task Force on Regulatory Relief, chaired by Vice President George H.W. Bush. This group canvassed corporate CEOs to identify regulations they wanted repealed. After petroleum refiners complained about limits on the amount of tetraethyl lead they could add to gasoline, the Reagan White House directed EPA to repeal them.¹⁸ Despite President Reagan's efforts to require agencies to base regulatory decisions on cost-benefit analysis, his administration did not apply these requirements to proposals to rescind regulations. Thus no cost-benefit analysis was done of the proposal to repeal the lead limits even though it would sacrifice the health of countless children for tiny cost savings.¹⁹

The proposal to rescind the lead limits generated a firestorm. Even columnist George Will, no friend to environmentalists, condemned the idea as inconsistent with conservatives' commitment to equal opportunity.²⁰ Public outcry forced the Reagan administration to abandon it and even to tighten existing limits on lead. Within a few years EPA Administrator Ruckelshaus championed a new cost-benefit analysis that made a compelling case for phasing all lead out of gasoline. This produced dramatic reductions in levels of lead in children's blood throughout the U.S. Now, emulating the U.S., virtually every country in the world has phased out leaded gasoline, generating

¹⁸ Hedrick Smith, *Reagan's Effort to Change Course of Government*, THE N.Y. TIMES (Oct. 23, 1984), <http://www.nytimes.com/1984/10/23/us/reagan-s-effort-to-change-course-of-government.html?pagewanted=all>.

¹⁹ Philip Shabecoff, *Reagan Order on Cost-Benefit Analysis Stirs on Economic and Political Debate*, THE N.Y. TIMES (Nov. 7, 1981), <http://www.nytimes.com/1981/11/07/us/reagan-order-on-cost-benefit-analysis-stirs-economic-and-political-debate.html?pagewanted=all>.

²⁰ George F. Will, *The Poison Poor Children Breathe*, THE WASH. POST (Sept. 16, 1982), https://www.washingtonpost.com/archive/politics/1982/09/16/the-poison-poor-children-breathe/7eb9b578-bdce-44a5-afad-863644992ed7/?utm_term=.2616cf6691c7.

enormous benefits to global public health, estimated at approximately \$2.3 trillion annually.²¹

Many of the most vocal opponents of EPA are seeking to garner temporary windfalls by forestalling inevitable market shifts toward a greener economy. When challenges to EPA's rule requiring power plants to control mercury emissions were resolved, more than 90 percent of regulated entities already were in compliance with the rule, which had not been stayed. The only beneficiaries of the Supreme Court's decision that EPA should perform a new study before making the regulations permanent were the owners of aging, coal-fired power plants that already were planning to shut down.

Despite politicians' portrayal of EPA as an agency "out of control," it is extraordinarily difficult for EPA to bring regulations into force. Regulatory targets spend enormous sums lobbying against regulations and challenging them in court. Fossil fuel interests even sued EPA over its Clean Power Plan a year before the agency adopted it.²² For reasons discussed below, the Trump EPA would be better off if it allowed existing legal challenges to EPA's regulations to be decided in court. These include two significant EPA regulations that Trump has promised to kill—the Clean Power Plan requiring states to reduce GHG emissions from existing power plants, and the "waters of the U.S." rule clarifying the scope of federal authority to require permits for dredging and filling wetlands.²³

Follow Proper Procedures and Articulate Good Reasons for Changing Regulations

If the courts agree with the legal arguments made by opponents of EPA's Clean Power Plan and "waters of the U.S." rule, the Trump administration will have an easy time eliminating the rules, which will be struck down in court and never take effect (both currently are stayed pending the outcome of the legal proceedings challenging them). If the rules are upheld in court, the Trump EPA can rescind them, but it must follow proper procedures and articulate good reasons for doing so. Both rules were the product of lengthy notice-and-comment rulemakings in which the EPA considered more than 4.3 million and

²¹ Thomas H. Hatfield, *Global Benefits from the Phaseout of Leaded Fuel*, 74 J. ENVTL. HEALTH 8, 14 (2011).

²² See *State of West Virginia, et al. v. EPA*, No.15-1363 (D.C. Cir. filed Oct.23, 2015).

²³ Kyle Feldscher, *Trump would Repeal Clean Power Plan, other Big EPA Regs*, Wash. Examiner (Sept. 15, 2016), <http://www.washingtonexaminer.com/trump-would-repeal-clean-power-plan-other-big-epa-regs/article/2601931>.

1 million comments from the public, respectively.²⁴ To rescind the rules, the Trump EPA will need to articulate a good reason for doing so, conduct new rulemakings, and consider public comments once again.

A new administration is entitled to reverse course and its action doing so does not trigger heightened scrutiny from reviewing courts.²⁵ This is the lesson of the Supreme Court's decision in *Motor Vehicle Manufacturers Ass'n v. State Farm*.²⁶

But the *State Farm* case also provides a powerful lesson that a new administration must have good reasons for changing course and not simply ideological opposition to federal regulation. In *State Farm* the new Reagan administration sought to rescind a regulation by the National Highway Transportation Safety Administration (NHTSA) that required passive restraints in new automobiles. Like the Clean Power Plan and "waters of the U.S." rules, the passive restraint regulation had been the subject of considerable political controversy and it was bitterly opposed by the regulated industry. Chrysler CEO Lee Iacocca endorsed the notion that air bags were more suited to serve as a method of capital punishment than as safety devices. The Supreme Court ultimately observed that "the automobile industry waged the regulatory equivalent of war against the airbag and lost."

Less than one month after taking office, the Reagan administration reopened the passive restraint rulemaking. Two months later it postponed the effective date of the passive restraint regulation and proposed its rescission. The White House Press Office announced the decision, describing it as part of a package of "economic recovery" measures. After a six-month rulemaking, NHTSA rescinded the passive restraint regulation, despite the agency's previous estimate that it would save 12,000 lives per year and prevent more than 100,000 serious injuries annually.

When NHTSA's decision was challenged in the D.C. Circuit, the prevailing assumption was that the judiciary's "arbitrary and capricious" review was so toothless that it rarely could be used to overturn an agency's decision. Instead,

²⁴ See *Factsheet: Overview of the Clean Power Plan*, U.S. ENVTL PROTECTION AGENCY (last visited Dec. 10, 2016), <https://www.epa.gov/cleanpowerplan/fact-sheet-overview-clean-power-plan>; *Response to the Comments for the Clean Water Rule: Definition of "Waters of the United States,"* U.S. ENVTL PROTECTION AGENCY (last visited Dec. 10, 2016), <https://www.epa.gov/cleanwaterrule/response-comments-clean-water-rule-definition-waters-united-states>.

²⁵ *Motor Vehicle Mfr. Ass'n v. State Farm*, 463 U.S. 29, 52 (1983).

²⁶ *Id.*

the D.C. Circuit panel struck down the rescission decision by announcing a new standard of judicial review—that sudden reversals of course by an agency required heightened judicial scrutiny.²⁷

The Supreme Court then granted review. The Justices unanimously rejected the D.C. Circuit’s conclusion that a new administration’s sudden change of course required heightened judicial scrutiny. But the Court surprised most observers by declaring NHTSA’s rescission of the rule to be arbitrary and capricious. In an opinion by Justice White, the Court held that NHTSA had “failed to present an adequate basis and explanation for rescinding the passive restraint requirement.”

What *State Farm* powerfully illustrates is that a new administration cannot simply impose its ideological preference for less regulation to quickly rescind a rule. The auto industry then was as vehement in its opposition to air bags as states opposing EPA’s air and water rules are now. But because the record supported the extraordinary life-saving potential of airbags, the Court held that the regulation could not be repealed without the agency coming up with a new record or a better explanation for doing so. Due to this surprising Supreme Court decision, hundreds of thousands of lives have been saved and millions of serious injuries prevented.

To be sure, the Supreme Court did not order that air bags be required. Rather it required the agency to offer a better reason for rescinding the regulation than ideological opposition to regulation. Archival research I conducted in the papers of the late Justice Thurgood Marshall revealed a memorandum from Justice White stating that for at least one aspect of its decision he doubted that NHTSA on remand “would find it too difficult to cover its tracks based on the present record.”²⁸ A new administration could repeal the EPA rules if it has a good reason to do so. But *State Farm* cautions that it should not act too hastily if it wishes such a decision to withstand judicial review.

In the wake of the *State Farm* decision both President Reagan and Lee Iacocca eventually changed their minds about the merits of air bags. The fascinating story of how Transportation Secretary Elizabeth Dole ultimately

²⁷ *State Farm Mutual Automobile Insurance Co. v. Department of Transportation*, 680 F.2d 206 (D.C. Cir. 1982), *aff’d*, 463 U.S. 29 (1983).

²⁸ Robert V. Percival, *Environmental Law in the Supreme Court: Highlights from the Marshall Papers*, 13 *Envtl. L. Reporter* 10606, 10624 (Oct. 1993).

persuaded President Reagan that air bags should be required is told in Michael R. Lemov's book, *Car Safety Wars: One Hundred Years of Technology, Politics and Death*.²⁹ Perhaps President Trump ultimately will have a similar epiphany concerning the merits of EPA's Clean Power Plan and "waters of the U.S." rules.³⁰

Promote American Competitiveness by Supporting the Paris Agreement

In December 2015 the nations of the world agreed to the Paris Agreement, establishing a comprehensive, global program of action to control climate change.³¹ The agreement embodies intended nationally determined contributions ("INDCs") by each country describing what it intends to do to control its greenhouse gas ("GHG") emissions.³² While President Trump has no authority to "cancel" the Paris Agreement, he can withdraw the U.S. from it. Under the terms of the agreement, withdrawal notices may be submitted three years from its entry into force.³³ Because the agreement entered into force on November 4, 2016, the earliest date for such a submission is November 4, 2019.³⁴ The earliest the submission could take effect is one year later on November 4, 2020, just before the next presidential election.³⁵

Global efforts to respond to climate change once received bipartisan support.³⁶ Few people realize that the U.S. Senate unanimously ratified the Framework Convention on Climate Change (FCCC) in October 1992, just four months after it was signed at the behest of a Republican president. To be sure, the FCCC as ratified did not require any controls on GHG emissions; instead it

²⁹ MICHAEL R. LEMOV, *CAR SAFETY WARS: ONE HUNDRED YEARS OF TECHNOLOGY, POLITICS AND DEATH* (2015).

³⁰ Robert Percival, *Judicial Review When a New Administration Changes Course: The Surprising Supreme Court Decision that Saved Countless Lives*, AM. C. OF ENVTL. LAWS. (2016), <http://www.acoeel.org/author/Robert-Percival.aspx>.

³¹ Coral Davenport, *Nations Approve Landmark Climate Accord in Paris*, THE N.Y. TIMES (2015), http://www.nytimes.com/2015/12/13/world/europe/climate-change-accord-paris.html?_r=0.

³² *Paris Agreement*, U.N. FRAMEWORK CONVENTION ON CLIMATE CHANGE (2016), http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf.

³³ *Id.*

³⁴ *Paris Climate Agreement to enter into force on 4 November*, SUSTAINABLE DEVELOPMENT (2016), <http://www.un.org/sustainabledevelopment/blog/2016/10/paris-climate-agreement-to-enter-into-force-on-4-november/>.

³⁵ Nathaniel Keohane, *Paris Agreement enters into force in record time, marking continued global momentum on climate action*, ENVTL. DEFENSE FUND (2016), <https://www.edf.org/media/paris-agreement-enters-force-record-time-marking-continued-global-momentum-climate-action>.

³⁶ CLIMATE CHANGE, <https://www.whitehouse.gov/energy/climate-change>. (last visited Dec. 11, 2016).

established a comprehensive process for negotiating them.³⁷ The 1997 Kyoto Protocol did include such controls on GHG emissions from developed countries, but it later was rejected by the George W. Bush administration on the ground that it would hurt American competitiveness because it did not require rapidly developing countries like China and India to control their emissions of GHGs.³⁸

The rationale for the Kyoto Protocol only requiring controls on emissions from developed countries was that these were the countries that initially had caused the bulk of the climate change problem.³⁹ Thus, the developed world should be the first to control its emissions. Yet all countries were well aware that skyrocketing emissions from rapidly developing countries eventually would have to be controlled, despite the FCCC's concept of "common but differentiated responsibilities." While this concept became the favorite mantra of Chinese officials resisting controls on their country's GHG emissions, remarkable bilateral diplomacy between the U.S. and China eventually resulted in a joint announcement in November 2014 that China would cap and reduce its GHG emissions by 2028 if not sooner.⁴⁰

Now that he has become president-elect, Donald Trump told the New York Times that "there is some connectivity" between human activity and climate change.⁴¹ He also stated that he now had "an open mind" about the Paris agreement.⁴² If he truly has an open mind and is concerned about American competitiveness, President Trump ultimately should support the Paris Agreement. It is the first agreement to require all countries, developing and developed, to join in the fight against climate change.⁴³ If the U.S. were to pull out of this agreement, it would spark harsh global condemnation of the U.S.

³⁷ *The Global Climate Change Regime*, COUNCIL ON FOREIGN REL. (2013), <http://www.cfr.org/climate-change/global-climate-change-regime/p21831>.

³⁸ Greg Kahn, *The Fate of the Kyoto Protocol under the Bush Administration*, 21 BERKELEY J. INT'L L. 548 (2003).

³⁹ Kyoto Protocol to United Nations Framework Convention on Climate Change, 2303 U.N.T.S. 162.

⁴⁰ OFFICE OF THE PRESS SECRETARY, THE WHITE HOUSE, U.S.-CHINA JOINT PRESIDENTIAL STATEMENT ON CLIMATE CHANGE (2015).

⁴¹ Interview with Donald Trump, President-elect of United States, N. Y. Times, in New York City, N.Y. (Nov. 23, 2016), https://www.nytimes.com/2016/11/23/us/politics/trump-new-york-times-interview-transcript.html?_r=0.

⁴² *Id.*

⁴³ Emil Jeyaratnam, James Whitmore, Michael Hopkin and Wes Mountain, *The Paris climate agreement at a glance*, THE CONVERSATION (2015), <http://theconversation.com/the-paris-climate-agreement-at-a-glance-50465>.

and encourage the rest of the world, and particularly developing countries, to return to binging on fossil fuels, accelerating a global climate disaster.

The Paris Agreement was the product of remarkable bilateral diplomacy between the China and the U.S., the two largest GHG emitters in the world.⁴⁴ It is widely supported by U.S. businesses who want to compete in the global economy.⁴⁵ It is premised on a U.S. commitment simply to continue trends that already are underway, a commitment that requires no new legislation to implement. Thus, if President Trump truly is concerned about keeping American industries competitive in the global economy, he should support the Paris Agreement rather than licensing our competitors to abandon their efforts to control GHG emissions.

Conclusion

President-elect Trump has an opportunity to transcend the political gridlock that has gripped Washington for so long. He can forge new policies that will benefit both businesses and the environment, particularly if he learns from the experiences of the Reagan and George W. Bush administrations.

⁴⁴ Edward Cameron, David Wei & Samantha Harris, *United States and China Lock In Paris Agreement*, THE HUFFINGTON POST (Sept. 3, 2016, 11:04 AM), http://www.huffingtonpost.com/we-mean-business/united-states-and-china-l_b_11845740.html.

⁴⁵ Sarah Parsons, *Andrew Steer Tells U.S. Lawmakers: Paris Agreement Is a "Big Deal for the World; Good Deal for America,"* WORLD RESOURCES INSTITUTE (2016), <http://www.wri.org/blog/2016/02/andrew-steer-tells-us-lawmakers-paris-agreement-%E2%80%9Cbig-deal-world-good-deal-america%E2%80%9D>.