Suppose the Trump Administration launches environmentally harmful projects in a state or wants to allow more pollution there than the state wants. Does the state have any possible recourse?

The answer is yes, although states's defenses have their limitations. There are a number of mechanisms states can use to defend their own environments, if not the nation's as a whole. Here's a review of some of the major tools.

1. **Statutory savings clauses**. Savings clauses are designed to retain state jurisdiction over areas even though the federal government is also regulating. The Clean Air Act and the Clean Water Act contain strong savings clauses. Although there are some exceptions, the federal pollution laws generally establish regulatory floors, not ceilings. So if the feds water down their requirements, states can substitute their own. Section 510 of the Clean Water Act expressly preserves the power of states to establish requirements more stringent than federal law, and section 116 of the Clean Air Act has similar language for stationary sources like power plants.
2. **Adopt California Car Standards.** One area where states have less control concerns air pollution standards for new vehicles. Under the Clean Air Act, only California has the power to enact new regulations after review by the federal government, though other states can then copy the regulations. The federal government has approved California's regulation every time but one (restrictions on carbon emissions under Bush). Pruitt has made noises about stricter review for California's waiver requests in the future, but there are limits to how far Pruitt can go. Section 209(b) limits EPA to considering three specific factors, and California will undoubtedly go to court if the waiver is denied.
3. **Interstate pollution.** Under the Clean War Act, a state may not grant a permit that would result in violating water quality standards in a downstream state. Under the Clean Air Act, EPA may not approve any state implementation plan that "contributes significantly" to a violation of air quality standards downwind. It is complicated to link environmental violations to sources in other states, and EPA has not always given these requirements a broad interpretation. But they give states some basis for pushing back against out-of-state pollution that impacts them.
4. **State certification for federal projects.** Under the Clean Water Act, states can veto federal licenses and permits that would result in violation of state water quality standards. This is an unusual deviation from the usual rule that the federal government is immune from state regulations. The Supreme Court has upheld broad state power to block federal projects under this provision.
5. **Consistency requirements.** Under the Coastal Zone Management Act, federal

activities must be carried out "to the maximum extent practicable" consistently with state coastal management plans. This applies to offshore drilling. So states that disapprove of drilling off their shorelines do have some leverage.

6. **Waivers of federal sovereign immunity.** Congress requires federal facilities to comply with state environmental regulations and permitting requirements, and waives sovereign immunity in terms of state enforcement actions. Thus, states can go after federal facilities for polluting and can even throw the book at the feds.
7. **State regulation on public land.** You might think that the federal government has exclusive regulatory power on federal lands, but you would be wrong. For instance, the Supreme Court has held that state may impose environmental regulations, but not land-use regulations, on mining taking place on federal lands. *Cal. Coastal Comm'n v. Granite Rock Co.*, 480 U.S. 572 (1987). The extent of state regulatory power is complicated and not entirely settled, but states clearly have some leverage even on federal lands.
8. **State Enforcement of Federal Law**. Federal pollution laws allow "any person" to bring suits to halt violations of federal requirements and even to require polluters to pay civil penalties. These laws explicitly classify states as persons. So if the feds don't enforce these federal laws, states can step in. Moreover, many states have been certified to carry out federal permitting or other activities regarding air and water pollution, and those states routinely engage in their enforcement activities.

Industry and the Trump Administration can be counted on to try to exploit every possible loophole and delay tactic, so these are not foolproof remedies. But they do give some important tools states that *want* to protect their own environment despite federal indifference or hostility. Probably the weakest of these tools relates to pollution coming from out-of-state, which is more of a problem in the East in terms of air pollution, and in the lower Mississippi basin in terms of water. California has the advantage of being relatively isolated from out-of-state pollution sources. The people who will bear the full brunt of the Trump Administration's assault on environmental laws, however, will be those living in Red states where the state government does not take much of an interest in pollution issues. Without an active state government to help fill the gap left by federal default, their air and water quality is likely to suffer.