Gov. Brown flew to China to assure leaders that, while the U.S. may not remain part of the Paris Agreement, California will; but is he as committed to fighting climate change as he seems? (Fred Dufour/AFP/Getty Images)

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EXCLUSIVE: Leaked Documents Show Jerry Brown Giving Big Oil a Seat in Drafting Climate Policy

The California governor is selling himself as a climate advocate on the global stage, but behind the scenes, the fossil fuel industry appears to have his ear.

BY KATE ARONOFF

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EXCLUSIVE: Leaked Documents Show Jerry Brown Giving Big Oil a Seat in Drafting Climate Policy - In These Times
California Gov. Jerry Brown has been making the most of Donald Trump’s withdrawal from the Paris accord. Less than a week after Trump announced he would pull the U.S. out of the landmark climate agreement, Brown flew to China to meet with President Xi Jinping about their shared efforts to cap greenhouse gas emissions—with or without the White House’s support. “California’s leading, China’s leading,” the 79-year-old political veteran boasted in Beijing. Noting that trip and Brown’s leading role in a series of joint environmental efforts with cities and states across North America, “California,” the New York Times heralded, “is emerging as the nation’s de facto negotiator with the world on the environment.”

In the state capitol in Sacramento, however, a different narrative is emerging. Documents...
obtained by In These Times show that California’s fossil fuel industry is trying to rewrite state climate policy to its liking. And sources close to the state capitol believe there’s a good chance Brown, fresh off several closed-door meetings with the industry, may let them do it. While a bill currently in front of California’s State Senate could pioneer one of the country’s most ambitious pieces of climate legislation, Brown’s administration has been considering an alternative measure—not yet a bill—that’s laden with talking points that appear to be ripped near verbatim from a policy paper by the state’s influential oil and gas lobby.

But why would a climate champion like Brown hand the keys to the state’s climate policy over to the fossil fuel lobbyists?

**Where Brown's loyalties lie**

Brown’s family has a long history in the oil and gas business. His father—former California Gov. Edmund G. “Pat” Brown—helped Indonesia’s then-recently installed military junta secure $12 million in loans from a string of American banks in the late sixties, shortly after leaving office. The same junta also nationalized Royal Dutch Shell in the country, and, in return for his service, Pat Brown was awarded control of a regime-
linked California oil trading company as well as half-ownership of another oil trading office in Hong Kong. Brown’s youngest sister Kathleen Brown, a former Goldman Sachs executive, serves on the Board of Directors for Sempra Energy, owner of the state’s largest provider of natural gas, the Southern California Gas Company.

In office, Brown has always balanced a commitment to environmental causes with a commitment to the fossil fuel industry. “On the one hand he parades on the world stage talking about how California is the world leader on climate,” says Liza Tucker, a consumer advocate at the Santa Monica-based group Consumer Watchdog. “At the same time, backroom deals are being done all over the place. It’s hypocritical.”

An August 2016 report Tucker authored found that 26 energy companies and investor-owned utilities donated nearly $4.7 million toward Brown’s 2010 election campaign, and industry interests donated $4.4 million to the state’s Democratic Party between 2011 and 2014. In total, oil interests have spent over $122 million on lobbying and elections in California over the last six years.

California’s fossil fuel companies appear to have invested wisely. In 2011, when
reformers entered the Division of Oil, Gas, and Geothermal Resources (DOGGR)—the state’s extractive industry regulator—and attempted to bring oil and gas companies into regulatory compliance, Brown instructed one of his top aides to have them dismissed. While pushing the Obama administration to ban new offshore oil development, Brown moved to protect existing offshore oil drilling, and has greatly expanded the state’s fleet of fossil fueled power plants. His administration has also intervened to stop local bans on fracking. Three months after he and other Democratic lawmakers rebuffed a push by activists to have the practice banned statewide, Chevron donated $350,000 to the state’s Democratic Party.

As the nation’s third-largest oil producer, California’s fossil fuel industry has long held sway on both sides of the aisle in Sacramento, despite the state’s reputation as a pioneer on climate and environmental issues. A detailed investigation by the Center for Public Integrity’s Michael J. Mishak found a history of long-standing ties between lawmakers and the oil and gas companies who lobby them. All the way back in 1915, DOGGR—now ostensibly tasked with regulating the state’s extractive industry—was set up to make it easier for oil and gas
firms to acquire land for drilling.
Environmentalists allege it serves a largely similar function today.

Energy and environmental issues have a history of peeling off moderate Democrats from the rest of the party, in no small part because of the significant lobbying done by the Western States Petroleum Association (WSPA), an industry group that counts Shell, BP, ExxonMobil and several other oil and gas giants among its members. Like the American Petroleum Institute at the national level, WSPA (pronounced “wispa”) is the lobbying arm of oil and gas companies in the American West, and has an especially strong presence in California.

“When energy-related bills pass the [California] Legislature, WSPA and its members have a hand in how rules are crafted and laws are enforced,” Mishak writes. “Lobbyists pick up meals for regulators at fast-food restaurants, refinery cafeterias, and oceanfront resorts. Oil executives and state regulators meet as an ‘oil and gas work group’ to discuss rulemaking.”

A similar dynamic appears to be creeping into the fight to extend California’s cap-and-trade system. Brown is clear that he wants some version of the program to continue.
Less clear is whose advice he plans to take. As the Los Angeles Times has reported, the governor’s office is currently meeting with several stakeholders about cap-and-trade. But the environmental justice advocates who have rallied behind SB 775—the proposal furthest along in the process, favored by advocates for its rigorous emissions reduction goals and attention to environmental justice concerns—say Brown is giving preference in negotiations to fossil fuel industry representatives, who have been regular visitors to the governor’s offices. According to sources close to SB775 who wish to remain anonymous because of the ongoing negotiations, documents leaked from Capitol cap-and-trade discussions suggest that Brown’s office is siding with industry representatives, whom his team has met with frequently in the last several weeks.

The documents outline new cap-and-trade proposal that would be far more friendly to industry than SB 775. The proposed measures mirror calls from WSPA and other industry groups to build in several loopholes for oil and gas producers that SB 775 would eliminate.

“They want to eliminate the possibility of direct regulation of their pollution,” Tucker says of the oil industry’s power play on cap
and trade, “because that’s going to be more expensive...because of the advantageous way that the cap-and-trade system is currently structured, so they can view carbon trading as a flim-flam where they can keep doing business as usual.”

“The cap-and-trade legislation is just the latest iteration of this trend,” Tucker said, referencing Brown’s meetings with the oil industry.

Even given the Brown family ties and the governor’s history of appeasing the industry, the advocates and environmentalists I spoke with agreed that Brown’s own record on the environment is decidedly mixed; several of the climate measure he’s backed have been genuinely innovative. “Obviously, compared to Donald Trump he walks on water,” Tucker says. “My point is that he could do better. The state can do better if he wants to be an example to the rest of the United States.”

**What industry's so afraid of**

Worth mentioning here is that California’s claims to climate leadership aren’t just smoke and mirrors. The state legislature—often with Brown as a key booster—has enacted a suite of impressive environmental policies over the last several years.

Employing a mix of regulatory and market-
based measures, the Golden State’s greenhouse gas emissions have steadily declined since 2010 even as its economy has grown.

California, the world’s sixth largest economy, now has the opportunity to shrink the state’s carbon footprint even more dramatically. In an effort to slash the state’s emissions to 40 percent below 1990 levels by 2030—a goal passed into law last fall by the state legislature—Brown announced recently that he’d like to extend the state’s cap-and-trade system. The system was established in 2006 and initially set to expire in 2020. Brown wants to extend it into 2030 and beyond. The measure is also currently facing legal challenges from cap-and-trade opponents, so part of the idea is to craft a new system that will be more difficult to defeat in either the courts or the legislature.

The most likely heir apparent to the current system is a new one outlined in SB 775, a bill to extend and alter the state’s existing cap-and-trade measures introduced by state Sen. Bob Wieckowski (D-Fremont) and state Senate President pro Tempore Kevin de León (D-Los Angeles). SB 775 is now sitting in front of the state Senate, and, if enacted, would represent a massive departure from California’s current carbon trading system,
as well as a kind of North Star for climate policy around the country. That also might explain why the state’s oil lobby is so eager to counteract it.

It’s important to understand just how ambitious SB 775 really is. Drafted with consultation from a cross-section of greens, economists and environmental and social justice groups, the bill’s main priorities are bringing down the state’s emissions and protecting the Californians being worst hit by pollution and climate impacts—both now and in the future.

As economist Mark Paul, who helped work on SB 775, explains, it’s something of a hybrid between a straight-up carbon tax and a traditional cap-and-trade system like the one California has now. Here’s how it would work: Every three months, a set number of carbon credits are auctioned off to polluters. As in a traditional cap-and-trade system, each credit represents the amount of pollution a company can emit in that quarter, and the price per credit is based on supply and demand. However, the prices would fluctuate only between a state-determined floor and ceiling, both of which would increase by a set rate every year. The floor would start at $20 per ton and the ceiling at $30 per ton, with the floor rising
by $5 per year and the ceiling by $10, plus inflation. The idea is to start low and give firms and consumers time to adjust, while also ensuring that the ceiling rises to $120 by 2030—pursuant to modeling on how the price can help meet the state’s climate goals.

Because the credits do not carry over from quarter to quarter, firms cannot stockpile (or “bank”) credits. As a result, the small carbon market created would be less vulnerable to the kind of speculation that, applied to subprime mortgages, triggered the financial crisis. Beyond the potential for reckless investments, allowing firms to accumulate credits year after year could mean that eventually companies could simply purchase thick stacks of credits without doing much of anything to bring down emissions.

“We’re not interested in creating a market for the environment,” Paul says, adding that the logic behind having a cap at all (rather than simply a price) is to regulate the amount of total pollution coming out of the state’s industries. If prices stay at the ceiling—as the people behind the plan expect it might—then it would operate more or less like a fixed price for emitting carbon.

Uniquely, SB 775 enjoys the support of several environmental justice groups, many of which tend to oppose market-based
measures as laden with loopholes for big polluters and scant on protections for vulnerable groups. I-732, Washington state’s carbon pricing scheme that was on the ballot there last November, failed in part because nearly all of the state’s progressive and environmental organizations saw it as too regressive and generous to polluters.

The team behind SB 775 were eager to avoid those mistakes and brought grassroots partners in relatively early on in the process. Aside from its attempt to tamp down on carbon trading, much of what sets it apart from similar schemes has to do with what the bill would do with the revenue it generates, and how it would eliminate common allowances for polluters.

Typically, cap-and-trade systems—including the one now in place in California—allow big polluters to purchase something called carbon offsets, whereby a firm can “offset” its own pollution by, say, purchasing a grove of trees to suck up a roughly equivalent amount of carbon from the air. One big problem with offsets, environmental justice campaigners argue, is that they tend to be far away from the places where pollution is happening, often in other states or countries. In addition to letting companies off the hook in terms of their carbon emissions, offsets also mean
that communities close to carbon-intensive, smog-producing industries see little improvement in their quality of life.

“It’s great if somebody’s getting some wetlands improved in Wisconsin,” Wieckowski says of offsets, “but that doesn’t really help out Californians.”

Another major change outlined in SB 775 is how it would use the revenue generated from the price put on carbon, which under the current system goes toward a smattering of green infrastructure projects around the state. As it’s written now, the new system would divide the revenue up into three categories: investment in infrastructure in disadvantaged communities; investment in research and development for low-carbon technologies; and dividend payments to all Californians that increase annually. This stands in contrast to the kinds of revenue-neutral carbon pricing and trading schemes floated in Washington and enacted in British Columbia, where revenue is funneled into tax breaks for the carbon-intensive companies affected by carbon pricing.

A recent analysis coauthored by Paul projects that a $49 per ton carbon tax at the national level would yield a $479 dividend payment per American per year. That can be extrapolated to SB 775, he says, to indicate
that Californians would receive $479 in annual dividends by 2023, two years after the law goes into effect.

Crucially, the bill also does not include measures to eliminate existing regulations. Right-wing and libertarian economists—who account for most of the people writing about carbon pricing, Paul points out—see preempting existing regulations as a necessary complement to enacting a carbon price.

However, so-called “command and control” regulatory measures have accounted for the vast majority of California’s emissions reductions in the last decade. “Regulations, not carbon pricing, have been the main driver of California’s carbon reductions to date,” Vox’s David Roberts writes in his exhaustive explainer on SB 775. “In fact, they have been so effective, and carbon reductions so much cheaper than expected, that there hasn’t been much work left for the cap-and-trade program to do. Near-term emission goals are being reached without its help.”

Campaigners also caution against seeing market-based mechanisms as a silver bullet, and warn not to use them to replace traditional regulations. “The funny thing about cap and trade and carbon pricing is that it ends up getting a lot of airspace and
attention,” says Amy Vanderwarker, co-director of the California Environmental Justice Alliance. A coalition of grassroots groups around the state, her group works largely with communities impacted by oil and gas. “California has a whole range of strong regulatory policies on the books that are achieving the majority of our greenhouse gas emissions, around 80 percent of them. Those regulations are absolutely critical,” she says.

Conversely, one of the four pillars of the Climate Leadership Council’s (CLC) carbon dividends plan, co-authored by Reagan Treasury Secretary James Baker III and Secretary of State George Schultz, is a “significant regulatory rollback.”

“Much of the EPA’s regulatory authority over carbon dioxide emissions would be phased out, including an outright repeal of the Clean Power Plan,” they suggest. “Robust carbon taxes would also make possible an end to federal and state tort liability for emitters.” It’s a goal they share with the oil and gas industry, members of which (ExxonMobil, Total, Shell, BP) have signed on as “corporate founding members” of the CLC. California’s oil and gas lobby—namely, WSPA—now hopes a similarly-minded one can beat out SB 775.
When oil companies write policy

So if not SB 775, what is the policy that California’s oil lobby would rather advance? WSPA has been circulating a wish-list of recommendations for the cap-and-trade program’s extension via the law firm Latham & Watkins LLP since early April, obtained by In These Times. Brown’s administration has, in closed-door meetings, been considering an alternate cap-and-trade proposal that closely mirrors WSPA’s recommendations, according to sources who received the proposals and prefer not to be named because of the sensitivity of the negotiations. Two documents, viewable here and here, appear to have been written by the governor’s office and are being circulated by Brown’s staff, the sources say. A third—the one that most closely resembles the language in WSPA’s wishlist—is suspected by advocates to have been drafted directly by WSPA. That document’s exact usage in cap-and-trade negotiations remains unclear.

The three proposals echo the WSPA’s wishlist in recommending that the state hand over exclusive authority for regulating greenhouse gasses to the Air Resources Board, the statewide air quality regulator, and taking that ability out of the hands of the
state’s air quality districts. They also includes a much lower and more gradually rising price cap. The proposal suspected to come from WSPA recommends specific regulatory rollbacks for oil refineries.

While several environmental justice groups have seen the leaked proposals, their exact origins remain unknown. So far the documents do not yet include either a sponsor or a docket number, although they feature calls to:

- Significantly roll back the authority of local air pollution control districts to regulate the state’s oil refineries, and build in specific protections from command and control-style regulations for oil and gas companies.
- Maintain polluters’ ability to purchase offsets.
- Not include a price floor on the price of permits, and much more gradually escalate the ceiling.
- Continue issuing free allowances to polluting industries.

A source close to the cap-and-trade fight, who spoke on the condition of anonymity given their ongoing work with the governor’s office, reports that the new language surfaced after Brown and one of his top
aides, Nancy McFadden, had been meeting regularly over the last several weeks with emissaries from the state’s extractive industry, including representatives of WSPA and Chevron. The source says that “every time you walk past [the governor’s offices] you see the oil industry coming in and out.”

Again, it’s still not known who wrote the draft proposal language, or how exactly they’re being received in Brown’s administration. Beyond the language of the proposals, however, SB 775 backers are concerned about the lack of transparency surrounding Brown’s decision-making on cap-and-trade. The Los Angeles Times last week reported that “the governor’s office has been developing draft proposals” for a cap and trade replacement “and circulating them in the Capitol,” though none have been released to the public, and no one I spoke with had seen alternate proposals beyond those described above. “If the governor is pushing other proposals, we simply haven’t seen them,” the source said. “There’s no transparency in what the governor’s doing. Nobody knows what the governor is doing.” Wieckowski told In These Times that he has also not met with the governor, though he did meet with Nancy McFadden. Brown has also been invited to several meetings with SB 775 stakeholders hosted by Wieckowski and
de León; no representative from his office has attended.

According to Vanderwarker—whose group consulted on and is pushing for SB 775—this would be nothing new. “Our experience has been on carbon pricing in particular it has felt like Gov. Brown’s main negotiating partner has been big oil. The proposals their office has put out,” referencing the documents described above, “are much more in line with their interests than the interests of the environmental justice community.”

Advocates fear that the language will soon find its way into a Senate or Assembly bill that enjoys Brown’s public blessing, and that the chances for getting SB 775 passed with a Brown-backed measure on the table are slim to none. Asked about SB 775, a spokesperson for Brown’s office told In These Times, “We do not comment on pending legislation,” but reaffirmed the governor’s commitment to passing an extension of the cap and trade program.

Vanderwarker worries that the office will prioritize speedy passage—even if that means compromise with industry—over a bill with teeth. “It appears that the Brown administration is more interested in getting a deal done this year than actually getting a
policy in place that is able to help achieve our 2030 targets,” she says.

The costs of a missed opportunity

SB 775’s future remains uncertain. The California Environmental Justice Alliance and other grassroots groups intend to continue talking with legislators as well as holding regular canvasses and phone banks to ensure the bill comes to a vote and is enacted. Wieckowski says he’ll continue meeting with different stakeholders about the bill, including both environmental justice and industry groups, in an attempt to mete out a solution that sees SB 775 passed into law.

Beyond curtailing California’s ability to cut down its own emissions, the oil industry’s rewriting of cap-and-trade could have troubling implications on the national and global stage. With Brown evangelizing for climate action, his backing of a watered-down measure has the potential to limit other states’ ambitions. After all, why would a red or purple state or even a less thoroughly Democratic one pass a climate policy more bold than the one that emerged from California’s liberal utopia?
As Vanderwarker puts it, “It’s hard to imagine how we can maintain this idea of California’s climate leadership if we pass a policy that amounts to such a big giveaway for big oil.”

After this story was published, the governor's office wrote In These Times to complain of what they termed “inaccuracies, innuendo, mischaracterizations and bogus conspiracy theories” and elaborated as follows:

Unfortunately, throughout the piece, the author cherry-picks individual provisions—provided piecemeal by third parties interested in tainting negotiations from the onset—to mischaracterize the administration’s efforts, as well as the substance and source of the measures being discussed. To be clear, our office is working with everyone: legislators, environmental groups, utilities, industry, economists, agricultural and business organizations, the environmental justice community and many others to reach an agreement.

Our role from the start has been to convene parties with different interests and to facilitate the exchange of ideas and
language to see where we can find common ground. Contrary to what’s implied throughout this piece, our singular focus is on ensuring California remains at the forefront in the fight to clean our air and curb carbon pollution.

That same focus is what led the Governor to commit to reducing today's petroleum use in cars and trucks by up to 50 percent within the next 15 years. And it’s why the Governor signed legislation to: establish the most ambitious greenhouse gas emission reduction targets in North America; set the nation's toughest restrictions on destructive super pollutants; generate half of the state's electricity from renewable sources by 2030; and double the rate of energy efficiency savings in California buildings.

All of this may not fit the author’s nefarious narrative, but our commitment to leading on climate change has not wavered.
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KATE ARONOFF
Kate Aronoff is a Brooklyn-based journalist covering climate and U.S. politics, and a contributing writer at The Intercept. Follow her on Twitter @katearonoff.

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If Bob authored an environmental bill, we know it is support; let's give it to him.

Who else wants to help make this happen?
cactuspie • 2 years ago
I'm old enough to remember Brown's first go at gov even better. But this time he really seems to have dr one hand while taking away with the other.

TellMeImDreaming • 2 years ago
You keep forgetting that Democrats/Liberals try to

Grumpy ➔ TellMeImDreaming • 2 years ago
Uh-huh. Why not ask Bernie if the DNC play

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Why not ask Bernie if he believes in f

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Interesting. I would assume si believe in "fairness."

Do you have information to tl

Clayton Smith • 2 years ago
For all those worried about the use of fossil fuels, it down its sole remaining nuclear power plant, which production, and for no other reason than an aversic stuff. How are we going to heat and light our homes population and lifestyle expectations? Of course, wi that. It's really a choice between fossil fuels and nuc subsidized marginal players. So, without a big move

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"No other reason" than the massive subsidy

When Jerry Brown was first governor, one o which in a few years was generating about a: technology. The nukes had enjoyed decades tax breaks on every level, some of which are "stranded costs."