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## Cooperative Federalism in the Trump Era: Arkansas Department of Environmental Quality Director Becky Keogh Participates in Environmental Law Institute Policy Forum (Washington D.C.)

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Arkansas Department of Environmental Quality (“ADEQ”) Director Becky Keogh was one of six panelists that participated in the Environmental Law Institute – Miriam Hamilton Keare Policy Forum (“Forum”).

The Forum was held on October 18th in Washington, D.C. to address the following topic:

Cooperative Federalism in the Trump Era: Can the Sovereigns Collaborate in Gains?

The other panelists included:

- Stan Meiburg, Director of Graduate Studies in Sustainability, Wake Forest University (Moderator)
- Neal Kemkar, Director of Environmental Policy, General Electric
- Bob Martineau, Commissioner, Tennessee Department of Environment and Conservation
- Barry E. Hill, Visiting Scholar, Environmental Law Institute
- Vickie Patton, General Counsel, Environmental Defense Fund

The panel’s discussion was published in the January/February edition of the Environmental Law Institute publication *The Environmental Forum*.

*The Environmental Forum* article notes that the panel’s discussion addressed:

. . . the opportunities and challenges of a new take on cooperative federalism for environmental governance. The conversation considered trends in politics, economics, technology, and other factors influencing environmental protection.

Questions considered by the panelists included:

- How will information technology and interconnectivity change environmental enforcement and accountability?
- How can governments, advocates, and businesses evaluate this information and use it to ensure compliance?
- What do forces outside the federalism dichotomy mean for the future of environmental governance in a global economy and society unconstrained by state or national borders?

Director Keogh's published comments included a reference to some of the historical changes at ADEQ that have enabled it to develop greater expertise and provide additional services over the years. She states in part:

One thing we need to remember is that states had environmental programs many years prior to the 1970s. Our agency has existed since the 1940s. And many issues were addressed not by a federal agency or a state but by cities.

Back then, we didn't have the benefit of today's technology, nor did we have the tens of thousands of trained professionals in environmental sciences and technologies that we do today. At our agency, we now have apps for many of our services, something that we never had before. That raises the question of how we channel this technology into our regulatory world, making sure that we are driving the technology in the direction we want it to go.

Some view EPA as sort of a helicopter parent to the states. Sometimes it's a matter of letting our children grow up and understanding that these programs have matured. Many of these programs have delivered the outcomes that we originally sought. They've now graduated from college, many of them have jobs, they have their own children.

Looking at a case in Arkansas, we have regulations that declare that if you get a handful of water samples from a stream with a certain percentage of pollutants, then we will do something about it. Now we have monitors that take samples every 30 seconds and we're trying to apply that data against a standard that used to be based on a set of eight samples over two seasons. Are the problems we are seeing today really an indication of a natural problem or is it just an indication that we know a lot more?

Director Keogh also responds to the question from the Moderator who asks:

Several of you talked about the potential of big data to be disruptive. I'd like to ask how – in your individual states or your companies or NGOs – are you looking at this challenge.

Director Keogh responds:

Our challenge will not be the data anymore. It will be the wisdom to know what data to actually base decisions on. Smart systems are not valuable if you're not wise in how you use them. We have to make sure that we build credibility in those datasets so we can have frank and honest discussions about whether action is necessary or not.