Foreword

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On April 15, 2011, the *San Diego Journal of Climate & Energy Law* and the Energy Policy Initiatives Center co-hosted the Third Annual Climate & Energy Law Symposium. The Symposium examined various emerging law and policy approaches to encourage clean energy. Clean energy refers to the diverse set of technologies that can help meet our needs for energy while limiting its impact on the environment. Undoubtedly, shifting to cleaner energy is an essential task for mitigating climate change; however, that position does not operate in a legal or policy vacuum.

At the Symposium, panels consisting of legal and policy experts from across the country addressed and debated a variety of key issues including the coordination of state and federal roles in the clean energy sector, the design of policies and markets for renewable energy and energy efficiency, and the balance between energy and environmental protection. The Symposium also brought together clean energy researchers, sustainability experts, industry leaders, and top government officials. Keynote speakers included Jon Wellinghoff, Chairman of the United States Federal Energy Regulatory Commission, and Karen Douglas, Commissioner and Former Chairman of the California Energy Commission. The articles that follow this Foreword address many of the critical issues presented at the Symposium.

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* Editor-in-Chief, 3 SAN DIEGO J. OF CLIMATE & ENERGY L. (2012), J.D. Candidate 2012, University of San Diego School of Law, B.A. Environmental Analysis and Design and Political Science, University of California, Irvine. I would like to thank the Editorial Board and Members of the *San Diego Journal of Climate & Energy Law* for their outstanding contributions to the success of this volume. I would also like to thank Ms. Brigid Bennett for her invaluable expertise and assistance throughout the editorial process. Finally, I would like to thank my family—Ha, Marc, Betty, and Darby—for their love, patience, and support throughout the entire publication process.

In addition to the collection of articles presented at the Third Annual Climate & Energy Law Symposium, Volume 3 also includes two outstanding student comments from Journal members. In *Space Commercialization: The Need to Immediately Renegotiate Treaties Implicating International Environmental Law*, Alexander G. Davis explores the current space commercialization landscape and the industry's environmental impact. In particular, the comment focuses on the greenhouse gas emissions and space debris produced by the industry. Recognizing that space commercialization is inherently a topic of international environmental concern, the comment examines applicable treaties like the Chicago Convention on International Civil Aviation and the Outer Space Treaty. The comment then proceeds to identify the shortcomings of these treaties and concludes by advocating for specific amendments under the doctrine of *clausula rebus sic stantibus* to increase regulation of the industry without unduly interfering with space commercialization growth.

In his comment, *Avoiding Absurdity: Why the Judiciary Should Uphold EPA's Use of the Administrative Necessity and Absurd Results Doctrines Within the Tailoring Rule*, David P. Vincent examines the efforts of a group of states and industry to curtail the U.S. Environmental Protection Agency's ("EPA") regulation of greenhouse gases ("GHGs") under the Clean Air Act ("CAA") and highlights the weaknesses in the approach taken by the challengers. The comment begins by introducing EPA's authority to regulate a group of GHGs from stationary sources as pollutants under the Act after the United States Supreme Court's watershed decision in *Massachusetts v. Environmental Protection Agency*, 549 U.S. 497 (2007). However, as the number of sources that emit GHGs at typical CAA levels dwarfs the number that emit conventional pollutants, regulating these GHG-emitting sources would impose excessive costs and permitting requirements. The comment then proceeds to outline the EPA's reliance on administrative law doctrines of *Chevron* deference, "absurd results," and "administrative necessity" to "tailor" CAA applicability criteria. Finally, the comment concludes by contending that applying these doctrines under a permissibly broad reading, the CAA permits the EPA to limit the number of sources that require regulation by modifying the applicability criteria.