Foreword
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On the evening of April 20, 2010, the BP Deepwater Horizon burst into flames, killing eleven workers on board and setting off a chain of events that would send five million gallons of oil gushing into the Gulf of Mexico for the next three months. As the crisis in the Gulf unfolded over the summer of 2010, the members of the Boston College Environmental Affairs Law Review and its advisors decided to organize a symposium to analyze the events leading up to the spill. The focus of our symposium was not on retroactive liability, but rather looking prospectively at ways to anticipate and prevent the next environmental disaster. What went wrong, and what actions should we suggest to prevent the next oil system failure?

The symposium, which was co-sponsored by the Boston College Environmental Studies Program, Boston College Law School’s Environmental Law Society, and the Boston College Energy and Environment Alumni Network (BCEEAN), with generous sponsorship from John D. Hanify, ’74, gathered leading academics to discuss their thoughts on how to avoid another catastrophe. The symposium took place on November 11, 2010, at Boston College Law School.

The first panel focused on the importance of effective regulation. Professor David Dana discussed his concept of NEPA-as-contract, which is elaborated in an article in this issue, co-written with Professor Michael Barsa, who was not in attendance.1 Professor Holly Doremus provided a different analysis of NEPA, focusing on the need for worst-case analysis in the environmental review process.2 Professor Alyson Flournoy presented three meta-lessons from the spill, which she describes as lessons

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1 Michael Barsa & David A. Dana, Reconceptualizing NEPA to Avoid the Next Preventable Disaster, 38 B.C. Env’tl. Aff. L. Rev. 218 (2011).
on how to learn from this disaster to prevent the next. Professor John Paterson brought an international perspective, describing the “safety case” program used to regulate drilling in the United Kingdom’s North Sea, and advocating safety cases as a successful system that can inform the United States’ own regulatory structure. Finally, Professor Rena Steinzor argued against Professor Paterson’s position, and dismissed the safety case regime as an unfit substitute for the United States’ current prescriptive regulatory system.

During the keynote speech, Dr. Riki Ott presented an extended scientific analysis of the human health harms and long-term ecological damage from oil spills, utilizing her twenty years of research into the health and environmental harms stemming from the Exxon Valdez spill in Prince William Sound, Alaska.

During the second panel, Professor Noah Hall discussed oil and gas drilling in a different context, that of the Great Lakes, explaining that although the United States has banned drilling in the Great Lakes, the potential remains for Canadian drilling operations to pollute this important freshwater resource. Professor Itzchak Kornfeld focused on the need to repair the Gulf ecosystem, and discussed the calculation of natural resources damages. Professor Mark Latham analyzed regulators’ inadequate understanding of the highly complex field of deepwater drilling technology, which led to inappropriate regulatory oversight and unsafe drilling systems. Finally, Professor Zygmunt Plater looked at the Gulf spill in context of the Exxon Valdez oil spill twenty years prior, to discuss whether we will finally apply the lessons learned two decades ago regarding how best to regulate petroleum “megasystems.”

These symposium presentations led to the articles published in this volume. The symposium was attended by a number of concerned citizens, activists, and members of government regulatory bodies, including the Chemical Safety Board and the Massachusetts’ Attorney

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General’s Office, among others. It is our intention to circulate the findings of the symposium to the widest audience possible, with the hopes that these conclusions will help illuminate how best to prevent the next environmental catastrophe.

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