

The Boston Foundation and the Cleanup of Boston Harbor

Well I love that dirty water
Oh, Boston, you're my home
—“Dirty Water” by the Standells, 1966

BOSTON, MASSACHUSETTS, DECEMBER 1984

Judge Paul G. Garrity crossed his arms over his black robes and glared into the middle distance. A collection of useless, rotted pilings jutted out of the stinking waters of Boston Harbor behind him, just steps away. On the horizon rose the Boston skyline. A photographer from the *Washington Post* clicked the shutter. The image published the next day, of a stern-faced, mustachioed, bow-tied judge standing on a rock, the visibly greasy water lapping at his heels, would serve to bring national attention to the deplorable condition of Boston’s harbor and waterfront.

For nearly a year and a half, a suit brought by the city of Quincy against the Metropolitan District Commission (MDC), the Massachusetts state agency in charge of the region’s sewer system, and the Boston Water and Sewer Commission (BWSC) had wended its way through Garrity’s courtroom. A parallel suit, brought by the nonprofit Conservation Law Foundation (CLF) against the U.S. Environmental Protection Agency (EPA) and the MDC, was idling in federal court. Now, a plan to replace the MDC with an agency that would have greater power to break the institutional deadlock that prevented action on the harbor was stalled in the state legislature. Garrity had tried, through threatening to place the MDC into receivership and through court orders designed to place politicians in uncomfortable spots, to get the legislature to act. Now he was taking his frustration directly to the people.

“I would be less than candid if I didn’t say I do have some concern about the publicity I’m generating here,” Garrity would say later. “I don’t take what I’ve done lightly.”

The suits brought by Quincy and the CLF had forced the MDC, city officials, the governor, the state legislature, and the federal authorities into action. But the parties were still at

Teaching Case Writing Program Director Barry Varela prepared this teaching case under the supervision of Professor Joel Fleishman and Associate Professor Kristin Goss as a basis for class discussion rather than to illustrate either the effective or ineffective handling of an administrative situation. In addition to footnoted sources, information was drawn from a descriptive case written by Scott Kohler for Joel Fleishman.

loggerheads, and the judge's behavior was seen by his detractors as inappropriate, undignified, and self-serving—the antics of an egomaniac.¹ Garrity insisted he knew what he was doing.

The circumstances that drove Judge Garrity to pose in his robes at the edge of Boston Harbor have roots that go back hundreds of years, to when Boston was first settled by the Puritans.

COMMUNITY FOUNDATIONS

Community foundations are tax-exempt public charities dedicated to improving the quality of life in their regions. Overseen by volunteer boards, community foundations are staffed by professionals familiar with the challenges and opportunities facing their local communities. The individuals, families, businesses, and other organizations that contribute to community foundations receive a tax benefit; donors can choose to direct contributions to the general community fund administered by the professional staff or into such vehicles as donor-advised funds, field-of-interest funds, or designated funds. Donations can be structured as expendable funds or as permanent endowments.

Community foundations offer donors personalized service, knowledge of the needs of the community and the possibilities for change, and the opportunity to generate social good while strengthening community ties.

The first community foundation was the Cleveland Foundation, founded in 1914 by banker and attorney Frederick Goff. Other regions throughout the country soon established their own community foundations. As of 2006, the more than 700 American community foundations have endowments totaling about \$39 billion²; internationally, there are over 1,100 community foundations in 35 countries.³

THE BOSTON FOUNDATION

Founded in 1915 as the Permanent Charity Fund of Boston by banker Charles E. Rogerson, his son Charles M. Rogerson, and philanthropist James Longley, who endowed the Fund with an initial gift of \$4 million,⁴ the Boston Foundation⁵ is the country's third-oldest community foundation. It was dedicated from its first years to pursuing community-building strategies to benefit families. Grants in the 1920s helped establish more than a dozen so-called Settlement Houses for new immigrants to Boston. During the Depression, the Boston Foundation supported organizations that provided service to needy families and the homeless. In the 1950s, the Foundation funded urban revitalization projects and recreation programs aimed at disaffected youth. After receiving a \$20 million donation in 1964, the Foundation increased its grantmaking and raised its ambitions, funding demonstration projects by local health- and childcare service organizations. By the 1970s, the Foundation was distributing almost \$3.5 million annually; much

¹ Karagianis, Maria, "Case Study: Paul G. Garrity." *Boston Globe*, January 27, 1985

² Fleishman, Joel L., *The Foundation: A Great American Secret: How Private Wealth Is Changing the World*. New York: Public Affairs, 2006, p. 28.

³ Community Foundation Network, "What Are Community Foundations?" Retrieved from http://www.communityfoundations.org.uk/about_community_foundations/what_are_community_foundations.php.

⁴ Menzies, Ian, "Travel." *Boston Globe*, June 22, 1980.

⁵ The Permanent Charity Fund of Boston changed its name to the Boston Foundation in 1984. This case study will refer to the organization as the Boston Foundation regardless of year.

of its grantmaking was directed toward easing the city's painful adaptation to court-ordered public school desegregation.⁶

Geno A. Ballotti

In 1979, when Geno A. Ballotti was appointed director of the Boston Foundation, it had a very low public profile despite its long history. In 1970, the New York, Cleveland, and Boston community foundations were approximately the same size; ten years later, New York held \$210 million, Cleveland \$190 million, and Boston only \$70 million.⁷ A columnist for the *Boston Globe* observed in 1980 that “few in Great Boston, outside of beneficiaries, have even heard of the [Boston Foundation] or, if they have, know what it does or how it operates.”⁸ The lack of public awareness hurt the Foundation's effort to attract local family trusts. Corporate contributions in Boston lagged behind those of other cities.⁹ To the extent the Foundation had a public image at all, it was as a “soft-spoken” charity that was “uncreative” and “did not take enough risks” but that was “close to Boston's leadership community, an elite of wealth, social ties and . . . personal accomplishment.”¹⁰

Born in Colorado in 1931 to Italian immigrants parents, Ballotti grew up in an orphanage near Chicago. He earned a master's in American Studies at the University of Wyoming and worked as an editor at Johns Hopkins University Press before moving to Boston in 1962 to become the managing editor at *Daedalus*, the journal of the American Academy of Arts and Sciences, where he worked until joining the Boston Foundation.

At the same time Ballotti joined the Foundation as director, Dwight L. Allison, Jr., was appointed president. The men agreed that the Foundation needed reinvigorated, both in fundraising (Allison's responsibility) and in grantmaking (Ballotti's). To grow the endowment, Allison set about raising the Foundation's profile. He made “special pitches” to individuals who'd made their fortunes in Massachusetts and courted prominent though nonwealthy citizens such as the writers Theodore H. White and Mary McGrory. “The prototype I see,” he was quoted in the *Boston Globe* as saying, “is the guy who started a company here and made \$5 or \$6 million and thinks of the city affectionately and says, ‘Gee, I'd like to give something back to the city.’”¹¹ Within two years of Allison's arrival, the Foundation took in \$8 million in new donations in a 12-month period, more than it had collected in the previous ten years.¹² By 1984, the endowment had grown to \$120 million.¹³

(As of 2007, the Boston Foundation holds almost \$830 million in over 750 endowed funds¹⁴ and annually receives donations in excess of \$50 million,¹⁵ making it the fourth-largest community foundation in America. It distributes more than \$50 annually.¹⁶)

With money coming in to the Foundation, Ballotti was freed up to be more innovative in his grantmaking than his predecessors, both Harvard deans, had been. As a man with a

⁶ Boston Foundation, “About Us: The Boston Foundation Through the Decades.” Retrieved from <http://www.tbf.org/About/about-L2.asp?id=72>.

⁷ Menzies, Ian, “Travel.” *Boston Globe*, June 22, 1980

⁸ Menzies, Ian, “Travel.” *Boston Globe*, June 22, 1980.

⁹ Menzies, Ian, “A Question of Corporate Giving.” *Boston Globe*, August 24, 1981.

¹⁰ Menzies, Ian, “Geno Ballotti: He's Proving to Be the Right Man at the Right Time.” *Boston Globe*, September 3, 1981.

¹¹ Menzies, “Travel.”

¹² Menzies, “Geno Ballotti: He's Proving to Be the Right Man at the Right Time.”

¹³ Menzies, Ian, “Needed Now: More Charity.” *Boston Globe*, October 23, 1984.

¹⁴ Boston Foundation, “About Us.” Retrieved from <http://www.tbf.org/about/about-L1.asp>.

¹⁵ Boston Foundation, “Helping to Build the Good City.” Retrieved from <http://www.tbf.org/uploadedFiles/05AR-1of3.pdf>.

¹⁶ Boston Foundation, “About Us.” Retrieved from <http://www.tbf.org/about/about-L1.asp>.

hardscrabble background, and as an outsider to Boston society, Ballotti was willing to take chances and shake up the old-money Brahmins associated with the Foundation. He spoke of the Foundation as a “change agent,” and of using the Foundation’s money as “venture capital, to identify needs and mobilize the intellectual, economic and voluntary resources that exist”¹⁷ to serve the community.

To that end, in his first few years at the Foundation Ballotti launched a series of innovative grant, such as one that supported the grouping of legal, medical, and social services together in community centers in poor neighborhoods. Another grant supported Freedom House, a resident-run public housing development that became a model for similar projects across the country.¹⁸ The Boston Food Bank, a newly founded charity, received seed money to move from a church basement to a warehouse, enabling it to store perishable food.¹⁹ The Foundation helped to establish an innovative endowment fund administered by the Boston public school system, allowing it some measure of flexibility in its annual budgeting.²⁰ As part of its longstanding commitment to urban revitalization, the Foundation supported various projects associated with the then newly renovated Faneuil Hall Marketplace.²¹

In 1983, Ballotti would administer a grant that would contribute to a monumental feat of urban revitalization.

BOSTON HARBOR

Since its founding in the seventeenth century, the city of Boston had relied upon its harbor for economic growth and turned to it for recreation. But starting with the Puritans, who dumped their household waste directly into the harbor, maintaining water quality was a problem. The city’s first storm sewers, built in 1820, carried rainwater and raw sewage to the harbor and were soon judged inadequate.²² A cholera epidemic in 1865 spurred the construction of a new system, completed in 1884, that included pumping stations. The Metropolitan Sewerage District (MSD), created in 1889 to coordinate the region’s sewer facilities, expanded and extended the system through the decades that followed. Even as the metropolitan region grew and ever greater amounts of waste flowed through the sewers, there never seemed to be time or money enough to overhaul the system as a whole. In 1952 the Metropolitan District Commission (MDC), the state-level agency that was the successor to the MSD, built a sewage treatment plant on Nut Island at the south end of the harbor near the city of Quincy. In 1968 a second, larger treatment plant was built on Deer Island at the north end of the harbor near Winthrop. See Exhibit A, “Map of Boston Harbor.” The two facilities served the needs of Boston and the other 42 cities and towns that made up the metropolitan area. Harvard law professor Charles M. Haar summarized the system:

In 1983 . . . the 5,300 miles of local collection sewers owned and operated by the forty-three member municipalities disgorged their burdens into 228 miles of large MDC interceptor sewers. At the time the area served by the MDC exceeded 400 square miles with a total population of more than 2 million. In addition to the interceptor systems, the

¹⁷ Menzies, “Geno Ballotti: He’s Proving to Be the Right Man at the Right Time.”

¹⁸ Menzies, “Geno Ballotti: He’s Proving to Be the Right Man at the Right Time.”

¹⁹ “There at the Beginning: The Greater Boston Food Bank.” *TBF News*, 1 (4), July-August 2002, p. 8.

²⁰ Menzies, “Travel.”

²¹ Menzies, “Travel.”

²² Haar, *Mastering Boston Harbor*, p. 52.

agency operated the two major sewage treatment plants, Nut Island and Deer Island, along with twenty-two pumping stations.²³

Nut Island and Deer Island provided only primary sewage treatment—separation of waste into solid sludge and liquid effluent, which was stored in sedimentation tanks, screened for debris, and skimmed. The resulting sludge and effluent were then chlorinated and pumped into the harbor through submerged pipes. Neither facility provided secondary sewage treatment, wherein sludge and effluent are subjected to further processing to reduce the oxygen demand generated by decomposition upon discharge into water.²⁴

The region's system of local sewers and interceptors was subject to overflows that deposited raw, untreated waste directly into the harbor. As Haar described it:

There were two types of overflow incidents in Boston Harbor: storm-related overflows, which occurred for periods of several minutes to several hours from fifty to a hundred times a year, and dry-weather overflows, which involved continuous discharge of sewage. Dry-weather overflows occurred regularly at thirty-four locations, caused by a variety of factors, including sewer blockages, regulator malfunctions, and tide-gate failures.²⁵

For years—as the metropolitan area grew, the sewer system deteriorated, and the harbor grew more polluted—the city of Boston, the surrounding cities and towns, the state, and the federal government were locked in bureaucratic gridlock. No party was directly accountable for the worsening conditions of the waterfront and harbor, and no party was willing to bear the cost of infrastructure modernization and waterway cleanup. The agency in charge of the sewer system, the MDC, was perpetually underfunded, understaffed, and overwhelmed. In addition to running the regional waste-treatment system (but not the region's waterworks), the MDC was responsible for administering parks and roadways. In the 1970s, the federal government offered grants that paid up to 75 percent of the cost of building modern sewage treatment plants; rather than take the money, Massachusetts authorities applied for and won a waiver from the federal law requiring secondary sewage treatment.²⁶

By the early 1980s, Nut Island and Deer Island were in “total collapse,”²⁷ repeatedly flushing billions of gallons of raw waste directly into the harbor. Boston Harbor was the dirtiest body of water in the nation.

In December of 1982, the city of Quincy filed a lawsuit against the MDC and the Boston Water and Sewer Commission (BWSC) in state court, charging that the agencies had violated the Massachusetts Clean Water Act; the suit also charged the agencies with violating laws requiring the maintenance of proper sewers and prohibiting the discharge of pollutants into coastal waters. Attorneys for Quincy also alleged that the violations of law had caused harm to the city, and they sought injunctive, remedial, and declaratory relief.²⁸ In short, Quincy demanded that the polluting of Boston Harbor should come to an end.

Attorneys for the city of Quincy deliberately timed the suit so that it would be heard by Judge Paul G. Garrity, who was, according to Haar, “widely regarded by Boston lawyers as a

²³ Haar, *Mastering Boston Harbor*, p. 56.

²⁴ Haar, *Mastering Boston Harbor*, pp. 55-56.

²⁵ Haar, *Mastering Boston Harbor*, p. 58.

²⁶ Dumanoski, Dianne, “Who Speaks for the Harbor?” *Boston Globe*, September 20, 1987.

²⁷ Dumanoski, “Who Speaks for the Harbor?”

²⁸ Haar, *Mastering Boston Harbor*, pp. 24-25.

maverick ready to deploy the power of the court to address broad social problems and to overcome what he believed to be injustice.”²⁹

THE CONSERVATION LAW FOUNDATION

Founded in 1966 to prevent the construction of ski slopes on Massachusetts's highest mountain, the nonprofit Conservation Law Foundation (CLF) was dedicated to protecting New England's environment and the health of its people and communities. During the CLF's first decade, the group advised local officials and lawmakers but seldom went to court.³⁰ With an annual budget of only \$15,000, all of CLF's work was done by its volunteer board of lawyers. In 1977, attorney Douglas Foy assumed leadership of CLF, and the organization assumed a more pugnacious stance. Foy launched the CLF's ultimately successful courtroom fight to prevent oil drilling on Georges Banks, a fishery off the Massachusetts coast. In 1981 it sued the National Park Service to restrict off-road vehicle use on Cape Cod.

On April of 1983, the Conservation Law Foundation announced that it was planning to file suit in U.S. District Court against the MDC; the chairman of the MDC; the U.S. Environmental Protection Agency (EPA); the head of the EPA; and the regional EPA administrator.³¹

Foy's eagerness to take on powerful interests attracted the attention of Geno Ballotti, who was willing to take a chance on supporting organizations that were fighting for social change. In 1983 the Boston Foundation awarded the CLF \$15,000 to support its suit against the MDC and the EPA—a small amount, seemingly, but still a grant equal in size to the CLF's annual budget of just a few years previous. In 1985 the Boston Foundation awarded the CLF a second grant, for \$25,000.³² And indeed, support from an increasingly prestigious grantmaker such the Boston Foundation would prove critical for the CLF's fundraising efforts. Within four years of the Boston Foundation's first grant, CLF's yearly budget would grow to \$750,000,³³ freeing the organization from its dependence on pro bono legal work.

The CLF's suit, filed in June of 1983, charged that the MDC had illegally polluted the harbor and the EPA had failed in its duty to enforce the federal Clean Water Act.

As Quincy's lawyers had hoped, Judge Garrity acted quickly, ruling in late June that the harbor had indeed been polluted, Quincy's claim were valid, and the MDC had probably acted in violation of the Massachusetts Clean Water Act and other laws. Garrity appointed a special “Harbor Master,” Harvard law professor Charles M. Haar, to investigate solutions and report back to the court at the end of the summer. Haar's report called for a court-mandated timetable for repairing deteriorated sewer lines and updating the Deer Island and Nut Island treatment plants. The report was greeted positively by state and federal officials,³⁴ and in September Garrity incorporated Haar's recommendations into a procedural order agreed to by all parties to the suit.

Meanwhile, the EPA and MDC were locked in a battle over how to modernize Deer Island and Nut Island. The EPA wanted to include secondary treatment in any plan to update the

²⁹ Haar, *Mastering Boston Harbor*, p. 24.

³⁰ Ackerman, Jerry, “The Courtroom Environmentalists.” *Boston Globe*, March 23, 1987.

³¹ Haar, *Mastering Boston Harbor*, p. 26.

³² Brady, Patricia, “The Boston Foundation's Greatest Hits.” Boston Foundation, December 2001. Cited in Fleishman, Joel L., et al., *Casebook for the Foundation: A Great American Secret: How Private Wealth Is Changing the World*. New York: Public Affairs, 2005, p. 176.

³³ Ackerman, “The Courtroom Environmentalists.”

³⁴ Unsigned editorial, “Hope for the Harbor.” *Boston Globe*, August 13, 1983.

treatment plants, while the MDC wanted simply to dump primary-treated waste deeper into Massachusetts Bay. By December, confidence in the process began to wane, as the head of the regional EPA decided to “take another look at several pollution-control options previously rejected as being unreasonably expensive and politically unfeasible.”³⁵ Still, Garrity’s process went forward slowly, as legislators and Governor Michael Dukakis negotiated a plan to reorganize the MDC.

In March of 1984, the presiding judge in the CLF case, A. David Mazzone, stayed the proceedings in deference to the Quincy suit that was proceeding in Garrity’s court. The next month, Governor Dukakis proposed a bill replacing the sewer operations of the MDC with a new, independent regional entity to be called the Massachusetts Water Resources Authority (MWRA). Unlike the MDC, the MWRA would be granted the authority to raise revenue through bonds and user fees³⁶ and would have responsibility for both the water and the sewer systems. In October the state senate passed an alternative bill, opposed by Dukakis, proposing the creation of a regional sewer authority without the water function.

In response to what he perceived as legislative fecklessness, Garrity threatened to place the MDC in receivership, an action that would effectively have put him in charge of the agency. He ordered the MDC to halt all planned sewer-line work, effectively blocking \$150 million worth of new construction; he also made the order retroactive to June 1983, imperiling another \$12.3 billion of construction.³⁷ The move angered numerous constituencies: the construction industry, the regional Municipal Association, the residents whose sewers weren’t getting fixed, and the politicians who had to try to explain that the problem was an unaccountable, out-of-control judge. The speaker of the Massachusetts House of Representatives called Garrity a “lunatic” on a local television news broadcast, and the *Boston Globe* quoted an anonymous district attorney as calling him a “wacko.”³⁸

To further galvanize public opinion, Garrity launched a public relations blitz, leading reporters on a tour of the Deer Island and Nut Island and introducing himself to workers there as the “Sludge Judge,” a moniker that stuck. For a photo that ran in the *Washington Post* and subsequently in the *Boston Globe*, Garrity posed in his judge’s robes in front of the polluted waters of the harbor. Responding to criticism that seeking publicity was inappropriate behavior for a judge, Garrity said, “My sense was that it was in the public interest. . . . This is a political case, and belongs in the political arena.”³⁹

Garrity’s actions, while radical, had the desired effect. With political pressure mounting as a result of the ban, the legislature passed Dukakis’s bill creating the MWRA. Triumphant, Garrity ordered that the MWRA’s work on the sewer system be overseen for the next three years by the courts in the person of Charles Haar, the former Harbor Master.⁴⁰ Feeling his work on the case was finished, Garrity immediately retired from the bench to enter private practice.⁴¹

With Judge Garrity retired, the focus of legal action shifted to federal court, where the Conservation Law Foundation’s suit continued to idle. After a complicated series of legal maneuverings, which included the EPA’s lodging suit against the MWRA (as legal successor to the MDC), Judge Mazzone consolidated all the suits into a single case, with the CLF, the EPA, and the towns of Quincy and Winthrop (which had also entered the case) as plaintiffs and the

³⁵ Unsigned editorial, “Harbor’s Ebbing Tide.” *Boston Globe*, December 3, 1983.

³⁶ Unsigned editorial “The Court and the Harbor.” *Boston Globe*, April 16, 1984.

³⁷ Haar, *Mastering Boston Harbor*, p. 225.

³⁸ Quoted in Karagianis, “Case Study: Paul G. Garrity.”

³⁹ Mancusi, Peter, “Objection, Your Honor, Say Some.” *Boston Globe*, December 13, 1984.

⁴⁰ Ackerman, Jerry, “Garrity, in Last Move as a Judge, Orders a 3-Year Harbor Supervision.” *Boston Globe*, December 22, 1984.

⁴¹ Stack, James, “Harbor Bill Signed.” *Boston Globe*, December 23, 1984.

MWRA as defendant.⁴² In September 1985, Mazzone found the MWRA liable for violations of the Clean Water Act. Thus a single entity, the newly formed MWRA, was determined by the federal court to be accountable for the pollution of Boston Harbor. And as Dukakis had planned, the MWRA (unlike the MDC) controlled its own revenue and financing, endowing it with power sufficient to begin the process of reconstructing Boston's outdated waste treatment system. The lawsuits brought by the city of Quincy and the CLF had successfully broken the bureaucratic logjam.

Before the year was over, the EPA issued a report recommending a new, \$1 billion sewage treatment plant with secondary treatment be built on Deer Island,⁴³ and Mazzone ordered the MWRA to complete a short-term three-year harbor cleanup program with monthly deadlines. The modernizing of Boston's waste treatment system and the cleanup of the harbor were finally underway.

Observers have credited the Boston Foundation with playing a key role creating the conditions that allowed the Boston Harbor cleanup to begin. "[I]t could not have happened without the Boston Foundation," the executive director of the Boston Harbor Association has been quoted as saying.⁴⁴ The Boston Foundation itself touts the harbor cleanup as one of the "highlights" of its history.⁴⁵ As Douglas Foy of the Conservation Law Foundation recalled:

[T]he litigation was very expensive. . . . It was also extremely controversial. . . . [Nevertheless] the Boston Foundation helped fund our work from the start. And it lent us considerable support as a prestigious old Boston institution. I'm sure that people at the Foundation thought long and hard about whether to weigh in and be identified with such a contentious public battle. No one back then could have anticipated how ultimately successful it would be.⁴⁶

In retrospect it may seem as if pursuing the legal route was the only possible way to overcome the institutional and political inertia that prevented harbor cleanup. But at the time, the correct course of action wasn't nearly so obvious. An April 1983 editorial in the *Boston Globe* urged the Conservation Law Foundation not to pursue its suit against the MDC and EPA: "The conservation group says its suit grows out of the frustration of watching succeeding state administrations pledge firm commitments to the problem only to back away as the complexity of the problem becomes clear," the editorial said. "That complexity, political as well as technical, suggests it is unwise to seek resolution in the rigidity of a federal court order."⁴⁷ The editorial went on to recommend that the administration of Governor Dukakis "be given an opportunity to address the issue of cleaning up the harbor in the broad context of future economic and recreational needs; court action should be considered only as a last resort."⁴⁸

Did the work of the Conservation Legal Foundation contribute to the success of the legal strategy pursued by the city of Quincy?

What strengths and weaknesses did the Boston Foundation bring to the fight to clean up the

⁴² Haar, *Mastering Boston Harbor*, p. 244.

⁴³ Blake, Andrew, "EPA Endorses Deer Island Site for Sewage Plant." *Boston Globe*, December 17, 1985.

⁴⁴ "There at the Beginning: Cleaning Up Boston Harbor." *TBF News*, 1 (1), January-February 2002, p. 5.

⁴⁵ "There at the Beginning: Cleaning Up Boston Harbor." *TBF News*.

⁴⁶ Quoted in Fleishman et al., *Casebook for The Foundation*, p. 178.

⁴⁷ Unsigned editorial, "A Cleaner Boston Harbor." *Boston Globe*, April 24, 1983.

⁴⁸ Unsigned editorial, "A Cleaner Boston Harbor."

harbor? What advantages and disadvantages did the Boston Foundation, as a community foundation, have over other philanthropic entities such as private foundations?

What other strategies might the Boston Foundation have pursued?

THE CLEANUP

Save the Harbor/Save the Bay

With the court order for short-term cleanup and the EPA's plan for a long-term solution to waste disposal in place, the fight to rehabilitate Boston Harbor was only half over. Implementation was yet to occur. Accordingly, in January 1985, Paul Garrity, *Boston Globe* columnist Ian Menzies, and State Senator William Golden (the former Quincy solicitor general who had filed the city's suit) formed a nonprofit environmental group, Save the Harbor/Save the Bay (SH/SB), to lobby for the restoration and preservation of Boston Harbor and Massachusetts Bay.

Geno Ballotti, director of the Boston Foundation, had died suddenly of a heart attack in November of 1984. His successor, Anna Faith Jones (the first black woman to head a major U.S. community foundation), awarded SH/SB a \$60,000 startup grant "for initial staff and operating expenses."⁴⁹ Throughout the cleanup struggle, the Boston Foundation continued to support SH/SB.

Construction of the new waste water treatment plant at Deer Island, one of the largest in the nation, began in 1990, the plant opened in 1995, and the decrepit Nut Island treatment plant was closed in 1998. A five-mile Inter-Island Tunnel transports raw sewage from Nut Island to the treatment plant at Deer Island and sludge back from Deer Island to a solids-processing plant in Quincy. Treated waste from Deer Island is conveyed through the Effluent Outfall Tunnel almost ten miles to an array of dispersal pipes in Massachusetts Bay.⁵⁰

As a result of these and other improvements, the quantity of solids released into the harbor declined by 80 percent.⁵¹ Though high bacteria levels remained a problem, causing frequent summertime closings of the beaches to swimmers, wildlife began returning to the waters of the harbor. Along with the Central Artery/Tunnel Project (known as the Big Dig), the megaproject to reroute Interstate 93 through a tunnel under the city and clear space for greenways and residential and commercial development, the cleanup of Boston Harbor transformed the waterfront, long a deserted blight on the city, into a locus of recreation as well as a place to live and work. During the decade of the 1990s, more than 60 percent of Boston's population growth occurred in waterfront areas.⁵² During the period 1994-2001, the waterfront accounted for 88 percent of the city's total job growth, and waterfront residents saw increases in income at rates higher than the city average as well.⁵³

The construction of the Deer Island facility and its integration into the existing infrastructure were considered to be monumental feats of engineering. In a 2002 special issue of *Civil Engineering* journal, the cleanup of Boston Harbor was named one of 40 "landmarks in

⁴⁹ Brady, "The Boston Foundation's Greatest Hits," cited in Fleishman et al., *Casebook for the Foundation*, p. 177.

⁵⁰ Brown, Jeff L. "Landmarks in American Civil Engineering History." *Civil Engineering*, 72 (Issue 11/12, Nov./Dec. 2002), pp. 92-172.

⁵¹ Save the Harbor/Save the Bay, *Boston's Harbor and Waterfront: A Renaissance Underway*, p. 9. Retrieved from <http://www.tbf.org/uploadedFiles/06-15%20Harbor%20Report.pdf>

⁵² Save the Harbor/Save the Bay, *Boston's Harbor and Waterfront: A Renaissance Underway*, p. 24.

⁵³ Save the Harbor/Save the Bay, *Boston's Harbor and Waterfront: A Renaissance Underway*, p. 24.

American civil engineering history,” ranking with such projects as the Transcontinental Railroad, the Panama Canal, and Hoover Dam.⁵⁴

Public investment (including the cleanup, the Big Dig, and other initiatives) in Boston’s waterfront and harbor from 1987 to 2004 totaled \$21 billion. The Boston Foundation did not directly underwrite the project—the scale of the endeavor was far beyond the Foundation’s means. Nor did the Foundation engage directly in legal or advocacy work. Rather, the Foundation’s role was a supporting one. See Exhibit B, “The Cleanup of Boston Harbor: Chronology.”

In the words of Paul S. Grogan, president of the Boston Foundation, and Patricia Foley, president of the Save the Harbor/Save the Bay:

Boston’s restored and revitalized Harbor and Waterfront reflect two decades of commitment and collaboration. Without the steely determination and perseverance of an enormous array of groups and individuals—the City of Boston and the Boston Redevelopment Authority, the Conservation Law Foundation, the Regional EPA, the Mass Water Resources Authority, the Boston Harbor Association, the Charles River Watershed Association, the New England Aquarium, Massport, and the MBTA, to name only a few, as well as scientists, planners, judges, and engaged residents from throughout Boston’s neighborhoods and the region—this chapter of Boston’s history would be much less hopeful.⁵⁵

In what way was the Boston Foundation uniquely positioned to support the legal and advocacy campaigns that led to the cleanup of Boston Harbor?

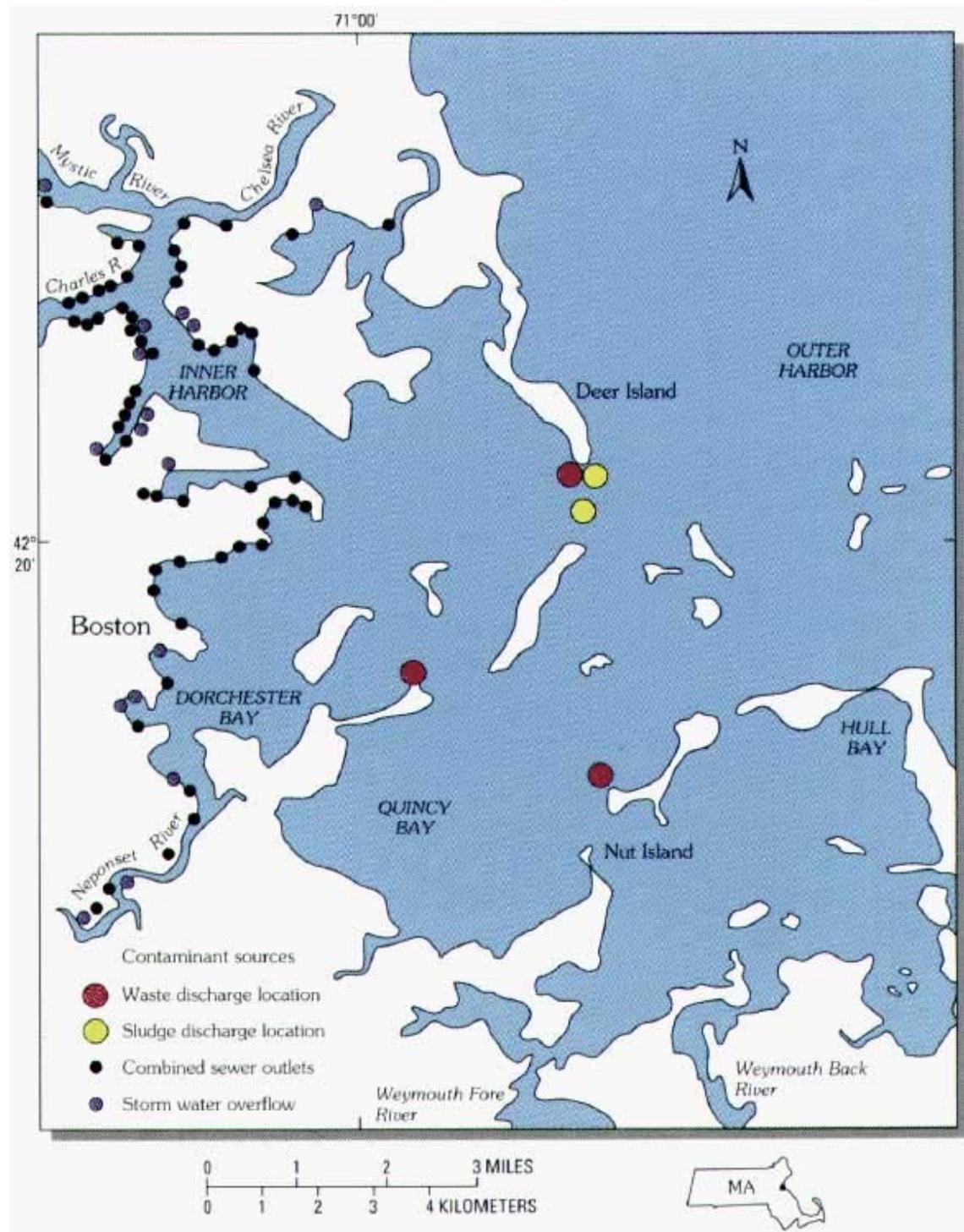
To what extent can the Boston Foundation be credited with removing the complex institutional, legal, and technical obstructions that had prevented the rehabilitation of Boston Harbor?

⁵⁴ Brown, “Landmarks in American Civil Engineering History.”

⁵⁵ Grogan, Paul S., and Patricia A. Foley, letter to the members of the Greater Boston Community. In Save the Harbor/Save the Bay, *Boston’s Harbor and Waterfront: A Renaissance Underway*, p. 2. Retrieved from <http://www.tbf.org/uploadedFiles/06-15%20Harbor%20Report.pdf>.

Exhibit A

Map of Boston Harbor



Map shows waste discharge locations prior to remediation programs. Source: U.S. Geological Survey, "The Legacy of Contaminated Sediments in Boston Harbor." Retrieved from <http://pubs.usgs.gov/fs/boston-harbor/figures/fig1.html>.

Exhibit B

The Cleanup of Boston Harbor: Chronology

1977

Douglas Foy assumes leadership of the Conservation Law Foundation (CLF).

1979

Dwight L. Allison, Jr., appointed president and Geno Ballotti director of the Boston Foundation.

December 1982

City of Quincy files suit in state court against the Metropolitan District Commission (MDC) and the Boston Water and Sewer Commission (BWSC).

1983

The Boston Foundation gives the CLF \$15,000 in support of its planned court action.

April 1983

The CLF announces it intends to sue the MDC and the U.S. EPA.

June 1983

The CLF files suit in federal court.

Judge Paul G. Garrity rules that MDC is probably in violation of the law.

July 1983

Garrity appoints Charles M. Haar to the position of Harbor Master.

August 1983

Haar's report to the court calls for sewer-line repair timetable and updating of Deer Island and Nut Island treatment plants.

September 1983

Garrity accepts Haar's recommendations and incorporates them into a procedural order.

March 1984

Federal Judge A. David Mazzone suspends the CLF suit.

April 1984

Massachusetts Governor Michael Dukakis proposes to form a new entity, the Massachusetts Water Resources Authority (MWRA), to replace the MDC.

October 1984

State senate passes alternative bill proposing to create a sewer authority without the water function.

Garrity threatens to place the MDC in receivership.

November 1984

Ballotti dies.

December 1984

Garrity orders the MDC to halt all sewer-line work.

Legislature passes the Dukakis bill creating the MWRA.

Garrity rules that the MWRA's work must be overseen by the courts for three years.

Garrity retires.

1985

The Boston Foundation gives the CLF \$25,000 to support its suit against the MDC and ERA.

January 1985

Garrity, *Globe* columnist Ian Menzies, and State Senator William Golden form Save the Harbor/Save the Bay.

Anna Faith Jones named director of the Boston Foundation.

The Boston Foundation gives Save the Harbor/Save the Bay a \$60,000 startup grant.

1990

Construction begins on the new Deer Island waste water treatment plant.

1995

The new Deer Island plant opens.

1998

The old Nut Island treatment plant closes.