

1-1-1987

## The Fund for New England: A New Environmental Philanthropy

Charles H. W. Foster

*Committee of the Fund for New England*

Follow this and additional works at: <https://scholarworks.umb.edu/nejpp>



Part of the [Economic Policy Commons](#), and the [Environmental Policy Commons](#)

---

### Recommended Citation

Foster, Charles H. W. (1987) "The Fund for New England: A New Environmental Philanthropy," *New England Journal of Public Policy*. Vol. 3: Iss. 1, Article 9.

Available at: <https://scholarworks.umb.edu/nejpp/vol3/iss1/9>

This Article is brought to you for free and open access by ScholarWorks at UMass Boston. It has been accepted for inclusion in *New England Journal of Public Policy* by an authorized editor of ScholarWorks at UMass Boston. For more information, please contact [scholarworks@umb.edu](mailto:scholarworks@umb.edu).

# The Fund for New England:

# A New Environmental Philanthropy

*Charles H. W. Foster*

---

*New England has a new, regional philanthropy, the Fund for New England, which is concerned with the advancement of natural resources and environment in the six-state region. The fund is one of a class of new regional environmental funds/trusts that are emerging across the country. The history of New England's own effort is described at the outset of the article, which also explores the experience and potential of the fund and its national counterparts with regard to advancing the novel concept of contributions in lieu of environmental fines. Finally, the process followed in establishing and operating the fund is examined in the context of other New England institutions. The article ends on the promising note that the Fund for New England and other such experiments across the country offer considerable potential for enhancing the environment and encouraging new forms of philanthropy.*

---

**A**cross the country, a new type of philanthropy is in the making. It is the regional environmental trust or fund, a foundation exclusively concerned with the advancement of natural resources and environment, and uniquely empowered to encourage action across conventional political boundaries. Predictably, New England is among those regions with active experiments under way. Its version, the Fund for New England, came into being in December of 1982. The genesis—and prognosis—for this promising new philanthropy are described below.

---

## Early History and Accomplishments

The fund's parent is the New England Natural Resources Center, a nonprofit organization formed in 1970 to provide a credible bridge between business, government, and the citizen nonprofit sector. In the decade of the 1970s—a period of burgeoning and sometimes strident concern for the environment—the center served as a steady, professional force and, increasingly, a place where New England-wide issues could be addressed factually and responsibly.

*Charles H. W. Foster, the first Massachusetts secretary of environmental affairs, is chairman of the Committee of the Fund for New England.*

By the early 1980s, change was in the wind again. New England's two regional agencies, the New England Regional Commission and the New England River Basins Commission, had been swept out by the incoming Reagan administration—owing as much to New England's own uneasiness with such federal-state institutions as to the change in political philosophy nationally.<sup>1</sup> But a study commissioned by the trustees of the New England Natural Resources Center showed that the need for a New England-wide natural resources program was ongoing.<sup>2</sup> In fact, the major environmental issues of the times—acid rain and contamination of ground water by toxic wastes, to name just two—had turned out invariably to be transboundary and transjurisdictional in character. Impressed by this new information but wary of New England's checkered experience with regional programs in the past, the center's trustees concluded that what was needed was not a new regional agency, but a new regional philanthropy that could move funds through existing institutions to address regionwide problems. Thus, the Fund for New England was born.

One other factor contributed to the decision to launch the fund. In 1977, as the result of a massive spill of the pesticide Kepone into the James River in Virginia, the Allied Chemical Corporation was found guilty of violating the federal Clean Water Act and was faced with the prospect of fines totaling \$13.2 million. Recognizing that simply fining the offender would do little or nothing for Virginia's environment, Federal District Court Judge Robert Merhige, Jr., on his own initiative, encouraged the company to make a voluntary contribution to start an environmental fund for Virginia. Allied's offer of \$8 million in endowment was accepted by the court, the fine was reduced proportionately, and the Virginia Environmental Endowment (VEE) came into being. So also did the principle of contribution in lieu of an environmental fine.

Traveling to Boston to meet with the trustees of the New England Natural Resources Center in December of 1981, VEE executive director Gerald P. McCarthy spoke positively of Virginia's experience and urged similar action in New England. The trustees were impressed. It was likely to be only a matter of time before some massive insult would impact New England's own environment. But in contrast with Virginia's experience, the consensus was that New England would be better served by having a credible, operating philanthropy in place *before* disaster struck. Settlement funds could then be put to work effectively and without delay. The sentiment was to move ahead promptly with a fund for New England.

But, some asked, how could a new charitable enterprise begin in the absence of funding? Two private foundations, the Jessie B. Cox Charitable Trust and the W. Alton Jones Foundation, provided part of the answer. They supplied \$160,000 in start-up funds, \$85,000 of which was earmarked to initiate an experimental program of seed grants for environmental purposes throughout the region. In the absence of permanent, capital funds, the trustees decided to establish the fund as a project of the existing New England Natural Resources Center and to operate the philanthropy as an element of what had become a virtual conglomerate of New England natural-resources ventures—the original, policy-oriented natural resources center, a recently established environmental mediation center, and now a grant-making foundation.<sup>3</sup>

With the concept and structure of a new foundation in place and the initial sums in hand, the trustees directed their attention to the question of how philanthropic resources could best be utilized. Supporting the existing fabric of nonprofit and educational institutions seemed to command a particularly high priority. Among current environmental concerns, the adequacy of water supplies—especially ground

water—was a matter of some urgency. Thus, early in 1983, with the cooperation of a leading citizen organization in each state, a request for proposals was issued, responses were evaluated, and eleven projects were selected for funding, ranging in size from \$2,200 to \$10,000. By December of 1984, enough results were on hand to warrant the convening of the first New England Assembly on Water Supply Protection. The event took place at the New England Center for Continuing Education in Durham, New Hampshire, with more than 100 participants on hand. Although the discussion was spirited at times, consensus was reached on several important aspects of water supply protection. It is far easier to protect supplies than to clean them up after they have become polluted, all agreed. While water supply unites people and serves as a social equalizer, most people still do not know whether they are safe or at risk. There was acceptance of the fact that the true price of water must include the cost of safeguarding it, and general agreement that doing so is a constant, formidable challenge requiring close cooperation between water companies, communities, citizens, and the states in the years ahead.<sup>4</sup> It was evident that the seed grants had done their work well.

With the initial allocations under way, the trustees then took up two other facets of the Fund for New England's program. One was a definition of the region's philanthropic agenda for the next five years. The other was developing a dependable base of support for grant-making until major endowment funds were in hand.

To define the agenda, the trustees turned to the author—who had formerly been a trustee of the New England Natural Resources Center, a state cabinet-level official, and a foundation and academic administrator with a special interest in New England affairs. Since time and funds were in short supply, I approached my assignment in reportorial style, meeting with separate groups of private and governmental leaders during 1984 in each of the New England states. The participants were asked to identify what they regarded as their state's priority needs.

In my subsequent report to the trustees, I identified twenty-five programmatic areas deemed worthy of philanthropic attention, and six cross-cutting themes for the region as a whole: The need to improve the quality of local decision making was evident everywhere. So also was the low level of public confidence in government and business leadership. For the most part, the public land-grant universities were perceived to be substantially disengaged from the larger problems of society, such as the environment. There was an urgent need to creatively strengthen and deepen citizen leadership. Technical and scientific findings seemed largely unintelligible to the layman. And the absence of any significant planning for natural resources and the environment appeared to be crippling remedial measures throughout the region. Published in December of 1984 as *A Philanthropic Agenda for New England's Natural Resources*, the report compressed some 150 suggestions into twenty-five topical areas, thereby assuring the Fund for New England and its supporters of a solid framework for future grant-making.<sup>5</sup>

With respect to achieving a dependable means of support, the trustees decided to borrow and modify a concept that had worked well in the state of Oregon. An informal support organization termed the 1000 Friends of New England was launched in 1985 under the leadership of former Vermont governor and New England Governors' Conference chairman Philip H. Hoff. Individual and corporate contributors began to be solicited at levels of \$100 and up. The objective was to ensure at least \$100,000 in contributions annually to continue an active program of seed grants throughout the region. But the *right* one thousand friends could provide another important benefit—



a network of informed and concerned influentials capable of working independently and collectively on behalf of New England's natural resource and environmental heritage. By the end of 1986, a network of nearly two hundred supporters had materialized.

As its own base of support reached the level of \$25,000 annually, and as supplemental program-related funds were obtained through awards from other foundations, the Fund for New England initiated a modest but significant grant-making program of its own. Awards were made once a year in a topical area selected by the trustees. In 1984, for example, the adequacy of water supplies was the designated theme. In 1985, the focus for grant-making was on the expansion of citizen organizations throughout the northern tier of the New England region to ensure proper forest conservation. In 1986, the trustees directed their limited philanthropic resources to the sensitive question of wetland damage mitigation, including the challenging prospect of a new program to rebuild New England's once-extensive wetland base. But the most ambitious undertaking to date has been the development of a formal land-conservation strategy for New England—the product of two years of meetings and discussions by some twenty-five of the best state, regional, and national land-trust leaders in New England. The fund's role has been to help catalyze the process of consensus building and to facilitate the formulation and subsequent implementation of the resultant strategy through its contacts with other institutions and philanthropies. Three methods of evaluation are currently being used to gauge the results of the grant-making program to date: a New England assembly device, like the 1983 New England Assembly on Water Supply Protection; the services of an outside consultant; and the general oversight of a diversified board of trustees.

Throughout these early years, the Fund for New England has also served as a resource for other philanthropies. For example, it has advised the New England Telephone Company in the distribution of \$50,000 in special water-resources grants to citizen organizations in the company's five-state service region. The fund has also administered a grant of \$21,400 from the William and Flora Hewlett Foundation to facilitate the development of a Northeast/Midwest coalition to find an equitable solution to the problem of acid rain. With the help of an anonymous donor, the fund has commissioned a preliminary analysis of the prospects for a new set of state, regional, and national environmental endowments patterned after the National Endowment for the Arts. The President's Commission on Americans Outdoors recommended just such a national trust fund in its report to the president and Congress at the end of 1986.

---

### **Environmental Trusts**

With respect to achieving trust funds through contributions in lieu of fines, the Fund for New England's record to date has been less encouraging. Environmental trusts typically contain monetary resources supplied through three types of mechanisms: (1) payments made as penalties for unsanctioned actions, such as polluting discharges or permit violations; (2) compensation required as a condition of a sanctioned action, popularly known as "linkage" payments, made at the time of the issuance of a building or development permit; and (3) monetary awards made to compensate for a systemic, irremedial, environmental effect, such as a chemical or an oil spill, not amenable to spot treatment and removal. Such trust resources are held for the benefit of the environment affected. They are used in direct or even specified ways, such as a particular treat-

ment, training, or research action or, in the case of funds, held as a permanent endowment, for the improvement of the environment as a whole in perpetuity. The Fund for New England has received no trust funds to date.

Fortunately, no major new pollution episodes, of the magnitude of a massive oil or chemical spill, have occurred in New England during the early years of the fund's existence. This has given the new regional foundation time to sort out how the trust-fund approach could best be employed in New England. Aspects of statutory and case law have been reviewed carefully with the help of outside consultants. As an example, a special examination of legal and policy issues involved in the payment of monies to environmental trust funds by defendants in federal enforcement actions was conducted by Pace University professor Donald Stever, the former chief of the pollution control and environmental sections of the U.S. Department of Justice. Professor Stever examined three types of arrangements that had been utilized in the past: (1) beneficial expenditures by polluters in return for relief from penalties; (2) environmental trust funds established by defendants but managed by governmental agencies; and (3) independent trusts or foundations created for the sole purpose of receiving and spending funds from polluters.<sup>6</sup>

Acting in concert with its West Coast counterpart, the California Environmental Trust, the Fund for New England has also been exploring the attitudes and potential impediments toward the use of negotiated settlements by public agencies. It has found, for example, that governmental agencies are normally prohibited from diverting revenues or gaining access to funds outside of the regular appropriations process. Since contributions in lieu of fines could have the effect of reducing enforcement revenues and indirectly achieving a supplemental level of program expenditures, the policy implications for an involved agency could be significant. There are also limits to the uses to which settlement funds can be applied, even when permitted by law. As an example, the more closely it relates to the actual damage caused by the offense and to the locus of the violation, the more acceptable the settlement approach is likely to be. The net finding of these inquiries seems to be that contributions in lieu of fines are more likely to arise from the initiatives of the polluters themselves than from the actions of enforcement agencies or the courts. This, in turn, has begun to raise uncomfortable questions about the appropriateness or even propriety of an environmental philanthropy actively promoting settlements where it may become the principal beneficiary. The aura of "bounty hunting" could well obscure even the purest of philanthropic motives.

Despite its own lack of experience in this area, the Fund for New England has kept a watchful eye elsewhere as the idea of regional environmental philanthropies has begun to spread across the country. In addition to the Fund for New England, at least five similar ventures have come into being since the establishment of the Virginia Environmental Endowment in 1977. They now span the continent from the far Northwest (Alaska) to the mid-Atlantic region. As one would expect, each venture has been molded to fit the needs of its particular region. For example, the Hudson River Foundation for Science and Environmental Research, the aftermath of years of protracted arguments about a proposed hydroelectric power project at Storm King in the Hudson Highlands, is concerned primarily with advancing scientific research. By way of contrast, the Chesapeake Bay Trust grew out of a Maryland legislative initiative and a need to support citizen activities during a massive intergovernmental bay cleanup program. On its part, the Alaska Conservation Foundation acts like a regional community



foundation, aggregating modest contributions from a wide variety of sources, especially from the lower forty-eight states, and redirecting them to worthwhile environmental projects. The newest venture nationally, the California Environmental Trust, has taken on the challenging assignment of improving environmental problem solving on a state-wide basis by encouraging government, industry, and the environmental community to pursue mutually beneficial solutions to natural resources issues. A prospective Fund for the Great Lakes may well pioneer still another approach—a legislatively sanctioned multistate fund, derived from a portion of state-imposed fines and penalties, which would be disbursed at a basin level to benefit the region's 25 million inhabitants.

At the first meeting of a number of these regional environmental funds/trusts, held in Washington, D.C., on November 18, 1986, many interests in common were evident. The procurement and use of settlement funds was one. Getting the best return from small grant programs was another. The relationship of these new regional philanthropies to existing private, corporate, and community foundations drew much comment, for the new environmental funds/trusts were clearly unique creatures—dispensers of grant funds in their own right, yet also recipients of awards from others to enable worthwhile regional projects. It was hard to tell at times whether they were grant makers or grant seekers.

There was much discussion about program activity. Should the regional funds/trusts be grant makers pure and simple, or should they also perform as operating foundations? Some foresaw a need for direct action to formulate and advance the best natural-resources and environmental policy. Still others preferred to facilitate the process indirectly through grants. In virtually every instance, the new environmental funds/trusts seemed to be utilizing their philanthropic stature to encourage partnership action by public and private entities on environmental issues.

At the close of the meeting, consensus was reached in a number of areas. The regional philanthropies needed to stay in touch with each other, all agreed—at least through periodic meetings and possibly through a national clearinghouse organization. They also needed to encourage a network of such foundations nationally by sharing views and experiences with other prospective regional philanthropies. But throughout it all, the full sense of experimentation needed to remain central. The consensus was that the cause of environment would be best served by a set of self-reliant and innovative institutions. Homogenization of the movement should be avoided at all costs.

---

## **In Retrospect**

What, then, can be concluded from this brief account of the Fund for New England and the class of environmental philanthropies which it represents? With New England's own institution less than five years old, it would obviously be premature to subject its record to full-scale analysis. Yet a number of observations can properly be made about the process followed to date.

First, the fund is a New England institution that attempts to avoid the flourish-and-flounder syndrome of so many predecessor regional efforts. There is no substantial bureaucracy to contend with and there are no major expenditures of funds to sustain, and therefore no threat to established agencies and organizations. Further, the new institution is fully expendable. If it does not work, it can be abandoned readily. For these reasons, the fund is apt to be a survivor, and it may even become influential in a region long known for its parochialism and its suspicion of things new. Besides, with

cash as its primary currency, no thrifty New Englander can afford to ignore the fund's presence and potential.

Second, while it does have a general sense of purpose and direction, the Fund for New England has remained deliberately dynamic. Unlike many philanthropies, it is not locked into specific programs, nor is it a captive of its own grant-making. The trustees have kept the organization modest and responsive and, as such, its efforts have not become dated.

Third, a curious feature has been the close working relationship emerging between the policy, conflict resolution, and philanthropic wings of the parent New England Natural Resources Center. This has been encouraged by a sharing of staff and offices and by a common board of trustees, but there have been programmatic manifestations of this working relationship as well. For example, settlement funds, while valuable from a philanthropic viewpoint, are also potential tools for helping to resolve environmental disputes. They can break the logjam represented by accused and accuser and create a climate of cooperative, remedial action. Among other uses, such resources are prospective funds for exploring new policy options and approaches. So also do the Fund for New England's unique environmental "assemblies" serve multiple purposes. Funded through grants, they provide a neutral ground for the mediation of disagreements, and they invariably help achieve a measure of policy consensus on issues of regionwide concern.

Fourth, the whole process by which the fund has come into being seems prototypically New England. For example, the idea of a regional philanthropy was not the product of exhaustive research or of extensive debate. It just happened, as do so many worthwhile New England initiatives. The fund's philanthropic objectives were not imposed upon the region from the outside; they emerged after a process of simply talking to those directly concerned with and knowledgeable about natural resources and environmental issues. Using an existing organization and experienced group of trustees echoed another cardinal New England principle—make do with what you already have. These men and women came from different states, represented a spectrum of disciplines and careers, and commanded a wealth of experience and contacts in both the public and private sectors. Even more important, they had worked together successfully for many years. In New England, we are reminded that it is the "whos," not the "whats," by which a new project is most frequently judged. And when a persuasive set of needs had been identified, the initial funds were in sight, and the timing seemed right, the new philanthropy was simply launched. As with so many New England ventures, it was the pioneering spirit that ultimately prevailed.

It is still a matter of some conjecture where the regional environmental funds/trusts are headed as a group. They may remain episodic, philanthropic institutions associated principally, even exclusively, with their particular territorial domains, or they may emerge as a new national force in philanthropy, bringing supplemental capacities and approaches to bear in the area of environmental concern, which has long been plagued by inadequate resources. Only time will tell. While it is too early to render a final judgment, the Fund for New England's unique capability to attract, aggregate, manage, and marshal monies from a wide variety of sources against the region's most significant natural resources and environmental problems seems constructive at the very least, and has the potential to become genuinely pivotal over time. ♪



## Notes

1. The New England Regional Commission was established pursuant to Title V, the Economic Development and Public Works Act of 1965; the New England River Basins Commission was established pursuant to Title II, the Water Resources Planning Act of 1965.
2. Charles H. W. Foster, "Natural Resources in New England," report to the trustees of the New England Natural Resources Center (Boston, 1982).
3. The conglomerate consists of the New England Natural Resources Center, the New England Environmental Mediation Center, and the Fund for New England, all under the same board of trustees. Fund for New England, *Report of the Fund: 1983-1985* (Boston, 1986).
4. Fund for New England, *Summary of the New England Assembly on Water Supply Protection* (Boston, 1984).
5. Fund for New England, *A Philanthropic Agenda for New England's Natural Resources* (Boston, 1984).
6. Donald W. Stever and Kathleen Kettles, "An Examination of the Legal and Policy Issues Involved in the Payment of Funds to Environmental Trust Funds and Similar Repositories by Defendants in Federal Environmental/Enforcement Actions in Lieu of the Payment of Penalties," Center for Environmental Studies at Pace University (New York, 1986).

---

## Other References

Abbot, Gordon Jr., and Charles H. W. Foster. *A Strategy for Land Conservation in the New England Region*. Lincoln Institute of Land Policy, Cambridge, Massachusetts, 1986.

Foster, Charles H. W. "A National Trust for Land Conservation." Report to the Committee of the Fund for New England. Boston, 1986.

———. *Experiments in Bioregionalism: The New England River Basins Story*. Hanover, Mass.: University Press of New England, 1984.

Thomas, Gregory A. (with Harrison C. Dunning). "Empirical and Legal Review of Environmental Trust Funding by Means of Enforcement Actions." Report to the California Environmental Trust. San Francisco, 6 June 1986.