ALASKA MENTAL HEALTH BOARD

PANEL DISCUSSION
DECEMBER 9, 2004
10:00 a.m - 12:00 p.m.

Taken at:
Frontier Building
8th Floor
Anchorage, Alaska

MODERATOR:
Jeri Lanier

PANELISTS:
Senator Robin Taylor
Nelson Page
Kathy Allely
Jan McGillivary
Jim Gottstein
Frank Appel
Matt Felix
MS. LANIER: We can take a few minutes to go down the line here, and describe who you are or who you represent. And describe your role in implementing the settlement.

MR. FELIX: My name is Matt Felix. I've been in Alaska for 30 years. I originally came to work for the City of Juneau to develop the Department of Health and Social Services --

SPEAKERS: We can't hear you.

MS. LANIER: Do we have any microphones, Richard?

Richard, do we have microphones? Do the best you can to project.

MR. FELIX: My name is Matt Felix. I came to Alaska in the '70s for the purpose of working for the City and Borough of Juneau. They recruited me from the University of Arizona. And the City wanted to develop a Department of Health and Social Services. And I was in the process of assuming alcohol services from the State, had plans for taking over health services from the State during the
'70s. So I came during that period of time, developed the department, and did that over a three-year period.

Following three years, I built Juneau Recovery Hospital, the first free-standing licensed hospital for the treatment of substance abuse and mental disorders. Mostly substance abuse with a four-bed detox center and a 16-bed inpatient unit. Took over the mental health services in 1980, and developed a fairly extensive outpatient services and developed -- with Bartlett Regional Hospital, a temporary inpatient unit. A permanent one was finally developed in the '90s.

I became the State coordinator for Alcoholism and Drug Abuse Services in 1982; State director later. And was in that position under three governors until 1990. And went back to work for the City running the hospital in their mental health services for a while.

Retired in '99, and have worked for the National Council on Alcoholism and Drug Dependence, national organization that
does lobbying for health care of primarily
substance abuse in all 50 state capitals, and
also have a tremendous amount of prevention
and treatment programs around the United
States. I've been in that position until
today. Still employed today.

    MS. LANIER: Wonderful.

    MS. McGILLIVARY: Am I
introducing myself or giving my spiel?

    MS. LANIER: You're introducing
yourself and explaining your role in the --
role in developing or implementing it.

    MR. FELIX: Can I get back to the
role part?

    MS. LANIER: We will get back.

    A SPEAKER: Can everybody speak
up? Because I think people in the back are
having trouble hearing.

    MS. McGILLIVARY: My name is Jan
McGillivary. I came on board with the Alaska
Mental Health Association in August of 1986 as
the executive director. At that time, the
association had wandered through the
litigation that had reached the Supreme Court,
and I was hired shortly after the judge said
to the State of Alaska, "Give them back their land." And the agency folded its tent at the end of last fiscal year at conclusion of the sale grounds. So I worked for the agency for close to 19 years. The first ten years of my tenure were spent exclusively working with the board of directors that was dedicated beyond measure to seeing the closure to the negotiations that occurred after the Supreme Court ruling that I'll talk about later.

And through those years, I poured millions of gallons of coffee, killed thousands and thousands of trees in creating documents, not only for my board of directors that when they met would meet six hours to discuss the days' events; but the coalition that developed as the litigation and -- the litigations started out with mental health advocates that later included representatives from the other beneficiary groups following the Greene decision, and then people that represented oil, coal, gas, subsurface mineral rights. And then, of course, towards the end, the people that hugged trees were involved in our coalition.
So I see my role as being a quiet supporter, more than a casual observer, to the process that I'm grateful to being a part of it.

I remember once a board president that I worked with for a number of years introduced me to a group of people and said, "Our executive secretary." And I took exception because my title was executive director. But truly, that was the accurate description of my role as serving as secretary to a dynamic board of directors and a dynamic group of folks that came together as the litigation passed through its various stages.

MS. LANIER: Mr. Gottstein.

MR. GOTTSTEIN: Yeah, I'm Jim Gottstein. My mother was Jan's predecessor at the Alaska Mental Health Association. In 1978 when the Legislature basically -- well, go back a little bit.

In 1956, Congress granted the Territory of Alaska a million acres of land to be used first for the necessary expenses of the mental health program, which they never really did. And then in 1978 they passed a
law -- I'm glad that Senator Taylor is right here so he can give that perspective -- passed a law redesignating the land as the state's land, which basically was really stealing it. We went down -- really, the Mental Health Association went down to Juneau and said, "You can't do that. It's illegal." And the response was, "Well, we don't care if it's illegal. Sue us."

And I was actually working on the Complaint to do that in June of 1982 when I had my psychotic break. And those of you who believe that things happen for a reason, that kind of thing, you know, may find that very significant. I certainly think that it has given me a lot of insight to a lot of things.

Steve Cowper, who was a former representative at that point, and a lawyer took over the case and didn't name the Mental Health Association as a Plaintiff. And the lawsuit was filed in '82. In 1984, Mr. Cowper, basically, caved under pressure and agreed to release the claim on the land when a Native corporation came in and the Mental Health Association said, "Don't do
that."

And he said, "You're not my client." And so they, the Mental Health Association intervened into the lawsuit, and I represented the Mental Health Association, Mary Nanuwak and John Martin on behalf of themselves, and all others similarly situated, until the conclusion of the lawsuit.

So I think it's fair to say I was the main land guy in the lawsuit. In addition to being involved in the -- you know, the programmatic aspects of it.

Ultimately -- I'm not going to go through the whole history. Ultimately, we ended up opposing the settlement that got passed. We felt that the financial terms of it was not enough. It was about half of what it should have been. I'm not going to go into all of that. There were structural problems with the settlement that we thought really -- were very problematic.

I think it's fair to say that our opposition improved the settlement through the settlement approval process. The structural problems were reduced. And one of the basic
rules about what went into the land part of the Trust is if anybody objected to the land going in, it didn't go back to the Trust; and we really raised holy hell about some of that land, there being no reason for it not to go in. And as a result of that, we got in a lot of oil and gas lands into the Trust -- which the Trust hasn't really experienced any significant revenue out of that, but I'm -- well, for one thing, I'm sure there's oil or gas being drained from Trust land right now without them being compensated for it.

So, anyway, since then, in terms of implementation, I was on this board for -- I think about five years, until I filed a lawsuit earlier this year, in January of this year, about part of the settlement which is that the -- the State is obligated -- that sufficient funding and adequate opportunity for the four boards to perform their settlement-mandated duties, their settlement-mandated duties is a material term of the settlement. That case is on appeal with the Alaska Supreme Court and will probably be briefed in the first quarter of
next year.

I've actually got a handout --

this is on the web -- of, you know, kind of
the history of the litigation.

SENATOR TAYLOR: My name is Robin

Taylor. At the time that I first became

introduced to this subject, I was campaigning

going door to door in a rainstorm in

Ketchikan, Alaska. I was walking by the road

by the Narrows Supper Club. If you no longer

know about it, it's because it burned. Up

past Coast Guard Bay, Narrows Road. I saw a

fellow across the street that was splitting

wood for his pile of firewood. I waved over

to him; he waved back. I walked over to him,

handing him a soggy little leaflet; his name

was Salamanchuk. And he had come from

Czechoslavakia. Very proud of the fact that

he was a U.S. citizen. And he was absolutely

disgusted with the state of Alaska, that in

1978 it had stolen land from the Mental Health

Trust; because he had an adult child who

needed services, it was a benefit of the

child. He believed his child was receiving

less services and less appropriation from the
State because of this illegal activity. He said, "You're running for office against this Wendte guy?"

I said, "I am."

He said, "I don't know if you're going to make it. If you do make it, will you promise one thing?"

I said, "What's that?"

"That you'll look into this and look into this thing."

I shook hands with him and gave him my word I would do that.

I was elected in 1985. I joined the Legislature as a part of a coalition. We saw that in the newspaper just the other day. I was a Republican, kind of a bastard stepchild of a Democratic organization during that first two years; and worked very closely with my colleagues. And we accomplished, I felt, some pretty good things. But we didn't get to the mental health question.

So the next time I saw Mr. Salamanchuk, I had to tell him, "We didn't quite get there."

'86 comes along. At this point I
was trying to help the Wrangell Mental Health Group split off from the Ketchikan Gateway Borough's catchment area and create our own pilot program under a young man named Mark Walker. So I went before the board, and advocated to the board they should do that. I also made passing comment at that point that I thought that the Democrats would continue to pay lip services to the appropriate funding levels that were being requested, would not address the request before the Supreme Court that had come down; and that they ought to re-energize their litigation, because I didn't think either Bill Sheffield or Steve Cowper, who followed him, would do anything about it. And they didn't.

So as a consequence, my friend, Jim -- what was his name? Mike Rose?

MR. GOTTSTEIN: Yeah.

SENATOR TAYLOR: God bless his soul. He worked so hard on behalf of the board. Walker, others, Jeff Jessee. People finally said enough is enough, and then went back to the Supreme Court.

As that litigation continued --
and then we had a resolve on it. The Legislature didn't know what to do, because they were faced with a very difficult problem.

The Supreme Court had said, "Look, you owe them a whole lot of money and you better give them the land back."

So various pieces of legislation got filed that would have granted well over a billion dollars cash, the Beluga Coal Fields, the Cook Inlet oil leases, both Senator Jim Duncan, and in the House side, my colleague, Mike Boyer, had introduced legislation to resolve that thing.

As their bills kind of staggered along, didn't get passed, litigations continue, injunctions get filed, the next thing you know there were 3,700 Moms and Pops across Alaska who couldn't get title insurance. This was a cancer to resolve this issue. The cancer was spreading and impacting lots and lots of people.

At this juncture, I was starting my second term as minority leader in the House on the Republican side. And it was apparent that nobody was talking to anybody else. And
both the Senate and the House were controlled through Democratic coalition on the Senate side and controlled outright by the Democrat party on the House side. The solution at that point was one that would have favored Jim's concept more than mine. That was a solution that was primarily a cash settlement with some land. Most of the lands being already locked up in state forest or wilderness areas.

It was apparent that this thing was not coming together. I felt pretty strongly about my commitment to old Mr. Salamanchuk, although I don't think we had more than a conversation every two years about this issue.

But I was also aware of continuing problems on funding for alcohol problems, for the mental health programs, for disabled. And I was concerned about those issues. I have a reputation of being a very strong conservative, but that's not when it comes to social issues; and my record would clearly reflect that.

So, as a consequence, I took it on as my own kind of cause celebre to see if I
can bring the parties together.

You talk about a wrestling match.

I had Harold Hines, who was then DNR commissioner -- Harold didn't want to give any way under any oil and gas. And then Charlie Cole, who had difficult negotiations in his negotiations with Plaintiff's counsel. He was at the place where he didn't want to talk to any of them anymore. We had the advocacy groups, the Plaintiffs' groups. The primary players were Mr. Jessee, Mr. Gottstein, Mr. Walker, and a whole series of others. As you know, there were several intervenors and two or three different groups. The groups didn't necessarily see eye to eye on all of these issues either.

I started holding meetings. I believe we held 27 different meetings, and I had to hold a meeting independently with the advocates group. Then I had to carry that message over and sit down and have a meeting with my old friend Harold Hines. Then I had to take and go over to the Attorney General's office and have another meeting. Nobody would meet in the same room. They would get mad at
each other.

MS. McGILLIVARY: Took too long.

SENATOR TAYLOR: I kept that up for about a year and a half, during which time we re-drafted a new bill.

The end of that process, I'm probably taking too long here -- but the end of the process was that we finally got everyone together with the Attorney General and board members and so on, and they agreed that though this compromise was far from perfect, it was something we all could live with.

At that juncture, I turned to both Mark Boyer and Jim Duncan and I said, "Look, guys, you've got the bill, you guys are in control of this joint. All I want to do is strip your bill. I'll leave your name at the top, I'll leave the number, but we're going to strip everything underneath it, and under one amendment we're going to insert this new bill. Because, by the way, you're going to pass it because everyone is gingerly shaking hands and we're moving forward to getting this thing resolved. We're not going to have 3,700 Moms
and Pops with land tied up." And we had 200 million.

And I think you guys were looking for about a billion? There were differences, right?

And I thought we had things moving. At that point, both Mark and Jim got into a big fight over who was going to get credit for it. They resolved that for a few days. I talked to Tom Bruce. I think we came out with Judge Duncan's bill. Both of them deserve credit. I mention them and try to do it in somewhat of a humorous tone. That's how things kind of fell out at the end. The advocacy was there. Both Mark cared; Jim cared. And I think a lot of people in the Legislature cared about trying to get something out of there that would provide meaningful resolve for that problem.

We got that far where -- I think it was Jim's bill, we got it on to the floor, or we had it allegedly calendared, and then at that point, things started breaking down. As minority leader, I had one option at that juncture, and that was to shut the entire
Legislature down, because I had that power the last day of the Legislature. So I did.

MS. LANIER: Can I --

SENATOR TAYLOR: I stood up, objected, stopped the whole process, and we shut the Legislature down for about ten hours. When we went back down on the floor, the first bill called up was the Mental Health Bill. We then passed that bill, and then I shut the House back down again. Because I didn't have agreement out of the Senate that they were going to pass it. We sat there and waited until the Rules Committee chairman brought the bill across, and we read it on the Senate side. At that juncture, we had two or three hours left. And we went through 20, 30 bills and wrapped up the Legislature and got out of Dodge.

I have always taken great pride in the fact that I was always allowed the opportunity and the honor by the people who had advocated. The Gottsteins, and Rose and Jeff, and the rest of the crew. That I was honored to be allowed to insist on that process. It felt wonderful, finally, to be
able to go to Mr. Salamanchuk, "We got it
taken care of. It ain't perfect. We got
it taken care of."

It then took another two and a
half years to get the Supreme Court approval,
and get the amendments to it and the details
worked out. That was my role, and I'm very
proud of that.

MS. ALLELY: My name is
Kathy Allely. I am a planner with the Governor's
Council on Disabilities and Special Education, and
have been there for the past year and a half.

Prior to that, I was a member of
the Council. I had a daughter with
developmental disabilities, who was seven at
the time I joined the Council. There have
been a lot of changes in those years.

In my role on the Council -- and
this was -- when I came on to the Council Dot
Truan was the executive director, and Jeff
Jessee worked for -- I think it was called
P.A.D. at that time. And Jeff used to come to
our meetings and confuse the heck out of me,
and I think everybody else that was on the
Council at that time, and talked a lot about
the issues, would brief us. And I would dread
that part of the agenda every time we had a
Council meeting -- I knew -- it was totally
overwhelming to me as a parent of a young
person to be hearing about all these title
issues and ownership issues. And at that time
there was still no agreement on who the
beneficiaries were. We weren't sure if people
with developmental disabilities were even
going to be part of the settlement. That was
one of the things that I was pretty interested
in making sure happened.

I think they were the mentally
defective, and were these people actually
people that that -- that's what it was called
in the settlement. Were people with
developmental disabilities individuals that
also were being sent to Oregon and, indeed, it
was found that they were. So, they became
part of the settlement. But that was a big
interest of mine, and I think all the Council
members.

So that's pretty -- I was just a
Council member. Just advocating for people
with disabilities at that time.
And my role has changed significantly since then. I had a long hiatus in between where I was doing some other things. So, I've had -- I had an opportunity to be part of all the settlement discussions, and then left my work with the Council for a while, and then have come back. So I have sort of an interesting perspective in that way.

MR. APPEL: I'm Frank Appel. I'm a member of the Commission on Aging. In the 1990s, I was on the Alzheimer's Agency Board. And so I had an opportunity to see the implementation of a number of the projects or programs that were funded by the Trust to serve seniors with Alzheimer's disease and related disorders.

I was aware of that -- prior to the time that I served on the board of the Alzheimer's Agency, that several of the board members had been advocates for the inclusion of seniors with mental impairments as a beneficiary group for the Trust. And they followed that and advocated during the '80s to see that that happened.
And I think the Trust has observed that the Trust funded many significant programs in the last ten years to assist seniors with mental disabilities.

MR. PAGE: I'm Nelson Page. I'm a newcomer compared to the rest of the board. I've only been in Alaska 26 years. I'm an attorney. I got started with Mental Health Trust issues when I became the foster parent of a developmentally disabled child, I'm happy to say is still part of my family.

That led sort of logically or illogically to my being appointed to the Mental Health Board in 1988 or thereabouts; and I served on that board until about 1992 or 1993.

This was the period of time, as others have described, when the litigation was hot and heavy. And I, too, used to get briefings from Jim and Dave Walker and be thoroughly confused by them. But it sure sounded like something important was happening. And, of course, I was right when I thought that.

The Mental Health Board, at that
time, had been established and was really the only group that was recognized as being the point of contact between government and the mentally ill with respect to program issues and with respect to this Trust litigation -- yeah, the Trust litigation issues.

So the Mental Health Board, when I was on it, spent a lot of time dealing with litigation questions, dealing with questions of policy, dealing with issues about how the settlement or how this litigation should go, dealing with issues about what would be appropriate to do with this Trust issue. And it was in that context that I spent a lot of my time at the Legislature and with those involved in the litigation trying to work something out.

When the settlement -- and it really was different proposals for settlement over time. When these various proposals for settlement were being discussed, argued, fought about on the streets of Juneau -- as Senator Taylor has so aptly described -- I was involved in advocating for some way to create a solution that would make sense. And when
eventually the proposal was reached that
created the Mental Health Trust and the system
that exists today, I was one of the early
advocates for accepting that settlement. And
Jim and others were very adamantly opposed to
it. Jim is absolutely correct that his
opposition to the settlement made it a much
better settlement, ultimately.

But I signed on early, and as a
reward or as a result or as a penalty, I was
given the privilege of being appointed to
being the first Chair of the Mental Health
Trust Authority now almost ten years ago. I
have served, I'm proud to say, on the Mental
Health Trust since then.

I guess we'll talk about the
substance of these issues in a few minutes.
That's probably enough for now.

MS. LANIER: Thank you.

Now that we've done the
introductions, we're going to go back and have
some discussion on understanding the purpose
of the settlement, lands, trust, and cash
settlement; how the program and planning
elements come; and how we've done today in
envisioning this purpose. So we're going to start back and go down the line again.

Now is the time you can put as much information in as you want to, within reason, so that everybody has a chance to speak before noon.

MR. FELIX: One of the things that people should understand is when this thing started way back in Territorial days that we were owned by the Federal Government for a lot of years; and the Federal Government was somewhat neglectful in the way they managed Alaska clear back in history. It was managed by the Army; it was managed by the Navy; it was managed by the Federal Marshals and magistrates; managed by temporary territorial governments, permanent territorial governments. None of them did a very good job of managing it. And they certainly did not provide services to their territory that would be able to move this state ahead to the point where it could become a state, as the people themselves had to do that.

One of the areas that they were very negligent on was providing healthcare
services of any kind. They were very forthcoming in providing jail services, correctional services, marshal services and that kind of thing. Back when we read a lot of the federal judges and federal oversight communications to Congress and whatnot, you'll see a tremendous amount of problems that they were having legally up here were mental health and substance abuse, addiction-related services. In fact, almost all of them to a large degree. It was a resource-based state. It was a mainly male population and unregulated drinking and unregulated, to a large degree, forces that resulted in a tremendous amount of abhorrent behavior.

The process of providing health care was actually done by churches, to a large degree, or religious organizations. Catholics were the main communities, Episcopalians in parts of the state. The big hospitals were in your major urban communities. Catholic's in Ketchikan was the biggest hospital in the state back in Territorial Days, St. Ann's in Juneau, Fairbanks, and here in Anchorage. So, there was complete neglect.
I guess the neat thing about it is that the Feds realized that there was a lot of neglect, especially for behavioral-type services. And upon the petition for statehood and there are lawyers who know more about this, somehow the Federal Government was the energy behind allocating and trust to the proposed state a million acres of the land to be used to set up a health care system, primarily behavioral health care system in the state so that what they did in neglect wasn't done when we became a state.

During that period of Territorial time that most of you know, that most behavior that was deemed to be behavioral health, the nature that society did not want to put up with was adjudicated through federal courts by federal magistrates, and if deemed too big a problem was sent down to a contract hospital called Morningside in Oregon. The records that I went through in Morningside were replete with a fairly good documentation about histories of mental illness and addiction, and were the basis, to a large degree, for a lot of the intervention on the parts of the
I first became aware of the whole process of setting aside a million acres while working for the City of Juneau. The city manager, my boss, called me and said, "What the hell are you trying to do? Somebody is trying to steal our armory on our park on the outskirts of the city." And I had no idea what they were talking about. I went to a legislative hearing and discovered there was such a set aside of a million acres, and those acres sometimes encroached -- maybe a bad choice of words, certainly were part of city government -- city lands. It was quite a mess that the cities had grown out into mental health lands. The State had given away mental health lands in different parts of the municipalities, Native corporations that had claimed them. It was just a mind-boggling mess.

And when I became state director, then, in the early '80s, one of the first things the governor asked me to do was to assist in straightening out the state for the State, and being with the Department of Health
and Social Services and Alcoholism Abuse, my main concern in partnering with mental health was to verify that the alcohol, primarily, problem was one of the things the Federal Government was concerned about in terms of setting this aside.

So, an attorney named Phil Volland -- I believe he's a judge now -- was employed by Nugen's Ranch who was a contractor or grantor of the substance abuse -- or the alcohol and drug abuse division, to basically represent alcoholics in and to try to intervene in the process and get them to be a beneficiary.

Phil flew down to Morningside and went over records, but found that lawyers don't read patient records very well. So he called us at the State, and I sent two staff down to go through 260-some-odd records. I flew down later and reviewed their report with them and talked to some of the psychiatrists that were still alive that treated people during Territorial Days and discovered that there was a substantial amount of alcohol, dementia, substantial amount of addiction that
was treated under the federal court's commitment to Morningside. And then, thus, had a basis for having alcoholics become -- Phil intervened on behalf of alcoholics, two named alcoholics that were then trying to become beneficiaries. This was the early '80s. And I think the Mental Health Board went through some kind of a process the same way.

What was the lengthier part of the question?

Being in Juneau, I went to an interminable amount of meetings about how to get the land, the trust reconstituted, whether this rock or this valley was worth the one they gave away. How the cities could be compensated or did we just take their land back. You know, listening to geologists and engineers and, you know, what was a federal right-of-way on roads and what was a federal rights for oil under this land and that land. It was -- as a person who has worked in health care, it was very, very painful for me to do unending hearings and legislature on these kind of things. I would say as an observer,
it was a noble, noble effort by people --
people in this room as well -- to do something
that was virtually impossible. You're never
going to reconstitute exactly what was given
away, but I think they did a noble job of
coming close. I think reading the Federal
Government, Territorial Government's intent, I
would agree with you, Mr. Gottstein, that the
money was way too little. It was their intent
to see there was a well-established treatment
system in this state and that the State didn't
neglect the citizens as it had done.

The only factor, I think, that
people have left out here, to a large degree,
is that we happened to hit oil in the state,
and the oil came running down in the early
'80s. And the state's reluctance to deal in
this matter was that they had substantially
funded these services with the settlement
money. It certainly seemed, to the extent
that I know substance abuse, went through $3.5
million to $18 million in one year, because we
were the poster child for that year in the
Finance Committee. So, you know, that took
the heat off to a large degree, the
settlement, where we were funded. And I think that, unfortunately, that kind of money, you know, started dwindling right after that. And then the impetus to settle this thing became more prominent.

So, with that, I'll pass. I've taken up my time. I think the Trust has done a wonderful job, by the way.

The third question here is how has the Trust done? I think the Trust has done a wonderful job, you know, in light of the problems, in terms of reconstituting, Trust getting this thing settled, and over the years funding services that are needed. I don't know how it could have been done any better, really, as far as the intervenors, the beneficiary groups. I think there are four distinct groups, as Judge Greene and the Supreme Court said, and I'm one from the old school to think there ought to be four beneficiaries with advocacy boards separate, and groups for those individuals as well. Any kind of combination runs this possibility of getting back to this mix of mixing and trying
to figure out who's on first.

MS. McGILLIVARY: Matt, thank you for your last comment. We agree.

Today I brought -- and I did have 40 copies that I distributed -- the press release that the Governor's office happily released in 1987 announcing the Alaska Mental Health Board's inception.

At that time, the Mental Health Association was asked to host the board's first meeting in Anchorage, and I remember the absolute thrill and excitement of finding a location, which turned out to be the Charter North Hospital solarium. They not only gave us the room free; but they put goodies out for us to eat. And watching, as you can read this wonderful press release, that is typewritten -- I look at that, and say, oh, my God, it doesn't look like a computer was used in that office, and it wasn't. The makeup of the board were carefully selected individuals that were there to launch the Mental Health Board.

Over the years, having been an involved advocated not only for the settlement
of the trust -- which the settlement didn't happen at the time the board was named. It was years after that that the settlement actually occurred. I've always been able to condense my view of what happened with the mental health lands very simply, and that is that we were promised a Cadillac, and the State stole our car. And when we noticed the car was missing, they gave us a Ford with no wheels and no transmission, no steering wheel. And said be happy with that.

And the struggle that occurred over years and years. And the meetings that we all remember, the endless, tireless meetings, and the confusion at sometimes the overwhelming issues that lawyers brought to us constantly. In my mind, I kept thinking of the Cadillac.

And once I was invited out to the Rotary Club in the Valley to do a talk on winter depression. And I was told by my board of directors that I was not a legal mind -- and I'm not. I'm not legally trained, and that I was not to ever speak publicly about the litigation. If I had questions, I would
refer them to our attorney.

And so I talked about winter depression. And at the end of my little talk, a hand went up and said, "Can you talk to us about the lands trust litigation? What's taking so long?"

So I used my analogy about the Cadillac and we got a Ford, had no wheels, and the audience came unglued. There were people that stood up and cheered, and it went on for about five minutes. And I didn't know why that was so funny, until somebody reminded me that the person that hosted me at the meeting was the Ford dealer.

(Chuckles.)

MS. McGILLIVARY: I went away feeling very good because, you know, I connected with that audience, and whenever I got a chance to answer questions about the litigation, that analogy held true.

At the time that we decided -- the Mental Health Association decided to move forward from litigating, I remembered being asked by the board in a particularly stressful meeting, "Jan, what do you think?" I remember
snapping my head up. As I said earlier, I 
poured coffee, I made copies, I arranged, I 
facilitated, but I did not hold a vote with 
that board of directors.

So, when I was asked that 
important question, and I think a lot was held 
in the balance, this was my simple answer:
When I came on board we were talking about a 
couple of billion dollars in our corpus, and a 
million acres of prime property. And here we 
are this many years later, and our prime 
property, the Beluga Coal fields, some Prudhoe 
Bay, the Homer Spit, the Ketchikan Air Field, 
we were not given a fair trade, folks, but we 
had to settle. We had to accept what was 
handed to us. Now we're talking about some 
dollars in the millions, and that's when I 
think a decision was made. I think my simple 
way of expressing it really captured the 
attention of people that were struggling. Do 
we continue negotiating and fussing over 
rocks, mountains, pieces of the city? No, we 
had to move forward.

And then our Trust was born. And 
one thing that I would say that the board
felt -- and I think that even some of these
grand names, Mike Rose, Selkreggs, people who
put life, blood, soul, blood, sweat, and
tears, would whisper, "Are we creating another
level of bureaucracy that is going to impede
the advocacy and the movement forward?" And I
remembered thinking, "Oh, my God, I hope we're
not doing that." And I can honestly tell you,
this many years later, having been, again, a
cheerleader, a sideliner, a person who has
gone to the Trust and asked for support, not
just for my agency, but others as well, that
it's a mixed bag. It's a ying-yang thing, and
I think we have to all be cautious that the
Trust Authority is not the end-all for mental
health funding in Alaska, which is why as an
advocate it's important with every new
policymaker that goes to Juneau, and every new
boardmember that sits on any beneficiary
boards, they need to be reminded of the
history. Because the Trust can't do it all
alone.

And when the State whines about
having to pay the bill, I remember the Ford.
I think that we're still driving a Ford. I
think we still have issues that deal with --
like today, they're doing a big homeless thing
for kids here in Anchorage. We have up to
5,000 homeless kids in Anchorage. Another
or -- or 1,005 in the Valley. God knows
what's happening in the rest of the state.
The issues that we see every day in the paper.
Foster care programs. Adoptive parents
beating kids up. It's not over, folks. We
have just begun the work of settling in with
this level of bureaucracy that we've created
that is a partner, and sometimes an obstacle;
but we have to work at remembering that it's
not the end-all. Our State Legislature also
has to be held to the obligation to fund not
just mental health, not just the other
beneficiary groups, but health in general.

And I will say one last thing --
thank you for this. It feels so good to say
these things, as I look at this very humble,
humble press release. I feel frightened when
I hear about collapsing the boards. It's not
driven from any prejudicial aspect of my part.
I agree with what you said, that the integrity
of our beneficiary groups must be maintained.
To me, that's the foundation of the settlement. The Greene group, the work that was put into design and define, again, to us: Who are the beneficiaries? Those are the folks that were sent to Morningside, their civil rights, their human rights were stripped of them. Let's not forget that.

I think the boards can work in tandem, and we will do that, but, please, remember, the basic tenant of the Greene group's decision, that we have four distinct groups. Very often, of course, those clients trade, we integrate and sometimes it's a chicken and egg. We're all the same family.

And I think I've said quite enough. But thank you. Thank you.

MS. LANIER: Mr. Gottstein.

MR. GOTTSTEIN: In terms of -- to me, of course, I come to this from a number of different angles, but a really important one is as an attorney having represented one of the beneficiary groups. And one thing, I think, that is really important for people to understand is that the settlement is a contract with the beneficiaries that in the
original legislation, that land was owned by
the beneficiaries and the State was the
Trustee. And so the State -- it was a
territory, then the State.

And that in the settlement, the
settlement is a contract, and the
Beneficiaries have rights under that contract.
And those -- and the settlement is that
contract. And sometimes I think it's really
important to get back to that principle
because maybe some politics gets into some
things, and that fundamental legal point gets
mixed.

So, in terms of understanding the
vision and purpose of the settlement, I think
that's key. I think one of the really
important things in the settlement is the
right of the Trust to spend -- you know, spend
the Trust funds without legislative
appropriation, and that's really a very key
thing.

And, again, back to this contract
idea and the idea of rights is, again, the
settlement is -- is the Beneficiaries'
settlement. The Trust is the steward. It's
the steward of the Trust. Is the Trustees --
they call themselves Trustees, and I think
they take that role seriously. And the
boards, which are part of the settlement, the
boards are part of that contract; they're the
Beneficiaries' advocates. And that was a
negotiated part of the settlement. I think
that's kind of a fundamental thing in terms of
understanding the vision and purpose of the
settlement from a lawyers' perspective, and
not everybody really thinks from the legal
perspective.

In terms of how have we done
today in realizing the vision and purpose? I
think that the Trust has been incredibly
effective so far. I mean, they far exceeded
my expectations in terms of how it was going
to go, and I think because of the people on
the Trust and their understanding of the
settlement, that they have really been able to
establish some things and try and build a
really solid foundation.

You have to remember that the
Knowles Administration basically came in and
just said -- I think a month after the
settlement was approved, the Knowles Administration was really an ally of the Trust and mental health programs. I think that really played into it. At least helped in measure, I think, for the great access that we've had. I think it's fair to say that the current administration certainly doesn't have that sense of history in terms of the Trust, and the contractual nature of it, and those sorts of things. And so, you know, I think there's some tensions that have been built up over that.

And I guess -- the other thing that I wanted to say is I think that both the Trust and the boards have, really, responsibilities to the Beneficiaries in terms of improving the lives of the Beneficiaries and looking at what's going on. The Mental Health Board, as do all the other boards, make recommendations to the Trust about what the programs should look like and what the funding should be, and I think, frankly, that the boards and the Trust, both, are missing the boat or losing the forest for the trees in two really key areas. One is that our current
system requires people to be poverty-stricken
to receive benefits -- I mean, to receive
services. You have to be poor to get any
help. And you have to, as a condition for
receiving services, be certified that you're
disabled and you're never going to get better,
you'll never be able to get work to get
services. That's what our system gets is
people that stay sick and stay poor. And
that's -- you know, what we put out there.
This is what we want to buy, and that's what
you get.

And the other thing is that, you
know, it's become increasingly clear that the
story that we've all been told about the
benefit about psychiatric medications -- you
know, helping people, is really not true, and
that just as this eligibility criteria is
keeping people sick, the way that the system
mandates the use of medications as a virtually
only mode of treatment when we now know that
it keeps people sick and, in fact, exacerbates
over the -- exacerbates over the long term
people's psychiatric problems that this is --
I think it's the board's and the Trust's
responsibility to really look at this. And from my perspective, a lot of this kind of turf stuff that's going on has been a huge, huge diversion from some of the key issues that I think that the Trust and the board really ought to be addressing.

MS. LANIER: Senator Taylor.

SENATOR TAYLOR: I certainly agree with my good colleague here on those points. At inception, we didn't know who we were dealing with. In fact, it took quite a long period of time and a lot of litigation to figure out who are we dealing with. Who are these beneficiary groups? And Judge Greene, as Jim has indicated, resolved that for us over the years. But that took tremendous amounts of advocacy. Attorneys on behalf of each of those groups were fighting not only to protect the autonomy of their group, but to deny at times the reflection that there was another group out there that should have a piece of this pie. Because the more pieces of the pie, the smaller your piece was, right? And so, as a consequence, this state and the people within this historic
group really paid a high price to resolve
definitions of who was within the pot and who
was without. So it may be nice to think about
all the homeless kids wandering out there.
There's no fiduciary relationship and there's
no trust, and there's no specific group known
as homeless kids. If you want to worry about
homeless kids, go talk to Health and Social
Services about the general ambiance of
homeless in Alaska. If you want to talk about
four groups, go to these four boards. We talk
about trust relationship. If you don't
provide services, they could sue you as a
member of the board. We set it up that way.
We wanted to resolve once and for all that
this was a trust and had been established as a

trust. It was much a trust my father left me
a million dollars and Eddie Rasmuson -- he's
not there. The bank has got my check. Their
trust officers go out and flitter away on bad
investments, and pay themselves for trees. As
a beneficiary of that trust, I can sue them.
Their obligation is totally different than the
obligation of a city councilman or a
legislator or someone else. We all have an
obligation under the Constitution to support
education, don't we? We have an obligation to
support roads and highways and public safety.
You go down to Juneau, you try to figure out
where's all the money going to come from for
each one of these things. When you're sitting
there as a member of a board of trustees, with
a fiduciary responsibility towards your
beneficiaries, it isn't just how much do you
like it. It's we better be moving our land,
our timber, our minerals at the very highest
and best value. We better be doing it in a
way that meets muster as well as all the
financial concerns, best interest findings.
All of those things have to take place.

Is your trust doing a good job?
I am overwhelmed by the job that your trust
and trust management people are doing.
They're doing a fantastic job. They're doing
a better job of land management and
aggressively pursuing funds for your
beneficiary group than any other agency of
state government, and federal government
doesn't even get in the ballpark. When it
comes to land managers, you've got some of the
very best. And they're learning. This is not an easy thing. Because two-thirds of the people that were sitting on the initial board were green as gourds and didn't want anything done with the land. I'll guarantee you that.

I'll never forget the meeting that Jeff and I and Sharron Lobaugh, George Rogers, it was kind of the quintessential final meeting when at that point the biggest identifiable beneficiary group was sitting in my office and we said here's the final package, can we go with it? And both Sharron and George were crying. And Sharron looked at me and she said you're going to make tears out of us -- timber harvesters. I said, "Sharron, silver bullets cost money." And as a trustee, with the fiduciary responsibility, I said, basically, you can't tolerate a Peter Gall taking 400,000 acres of your 1 million and locking it up in an eagle preserve in Haines. Who is going to pay? The eagles? Are they going to come up and pay the money that our kids are going to need? I don't think so. That was set up as a state forest. It was selected by the Mental Health folks as a
forest. People went into Haines, developed miles, Shanobel tried to get it off the ground, get it going. State declares it's their property in 1980, representative comes along in the early '80s and he declares it a wilderness area. All of a sudden Shanobel comes in and there isn't income coming along over our land. We passed a law. Did you want back the 400,000 acres? It was yours. You had to take it, though. What did it generate for income? How is it going to be managed in a way to generate wealth to come back in and pay for the programs that we needed for these four beneficiary groups? I heard the words "dog meat land" several times there. We did find good land out there. It's always a compromise. Wasn't always the best stuff. Certainly wasn't the worst. Through what I think has been creative talents and great energy that's been put forth, your Trust is doing a great job.

And one of the biggest points I fought for throughout, and believe me, there was a lot of the folks in Juneau, they hate the idea of a board having autonomy over their
own money. They really don't like that.

Because as a legislator, it's near and dear to your heart to be able to control all the money. Jeff will tell you that. I fought for that one and fought for it hard. Ron Larson, God rest his soul, remember, was in there helping us on that one, as were so many others. You had to fight to get that. Get that autonomy.

That autonomy over the cash gives you people the opportunity to decide how much are we going to spend on land management. How can we maximize these funds? How can we generate more money for our programs? And then you guys can all have the internal fight that my friend, Jim, indicated as to how those Beneficiaries receive those services. Should it be limited to rich people or poor people or somebody in between? God bless you. That's your decision. That's not a decision that's going to be left up to some bunch of legislators. I'll guarantee you. If you left it to the current Legislature nobody would get services unless they lived near the rail belt.

One other point I want to make,
and that is the essential question that came at the end of each of the comments, my colleagues' comments here, what about the autonomy of the boards themselves? The quintessential question being raised at this juncture is should there be a consolidation or a merger of these various boards? For those of us who fought so hard to identify who the groups of people were that were the true Beneficiaries and to try and come up with some percentages, you know, what percentage falls in this category? What percentage in that category? Is there commonality? Yeah. And overlap? Sure there is in some. But are there unique concerns to each of these four? And Judge Greene found that there were.

And all the legal opinions I've seen and the rest of it of late tell me that you're going to have to have some type of legislative amendment if, in fact, you're going to merge these boards. I think that Legislative amendment then has to go back to the court -- anybody correct me if I'm wrong there. I think it has to go back to the Supreme Court who actually sits still and will
continually, in perpetuity, on this contract, actually sits as the arbitrator to make sure it's being carried out right.

Will these changes be negative or devastating or bad for the boards, the ones that have been suggested? Will some of these mergers be bad? I don't know. I think it's far too early to tell at this point. But I still believe there is value, if you will, in the definition of specific groups who have specific needs.

And how that autonomy of those individual groupings is retained, I don't know that that necessarily is something that you fall on your sword over. But it certainly is a fact of life. It's a reality that was hammered out and forged out of very difficult and arduous times in making these definitions, and to now to just change those -- definitions arbitrarily, to make us all feel good about having some big group grope here, I don't think that that is necessarily a valid excuse for doing it. And I do believe, in my heart, that there is -- that it is important to retain an advocacy for specific interests
within specific groups.

And I wish all of you Godspeed in determining those issues. Personally, I would continue -- I guess, we all -- we're reluctant at change, aren't we? We hate change.

I wouldn't be real comfortable with any kind of rampant change at this point. If people can work that over time and if people can finally trust one another with each other and will feel comfortable that their group will be protected by members of the other group, then certainly it's worth exploring if, in fact, it saves money on the bureaucracy, as Jan was mentioning, if it reduces bureaucracy, saves money, makes you more efficient so that actually more dollars go back to your beneficiary groups, I'd encourage doing it.

But if it doesn't do that, and all you do is kind of merge for the fun of merging, then I don't think that that has sufficient value.

And, remember, each of these decisions about merger and allocation of funds within the groups, each of those decisions has
to pass muster eventually in front of a judge who says you either met or did not meet your fiduciary obligation to this beneficiary group. So, it's a tremendous burden that lays over each boardmember and over each group.

So, as I said, I wish you well in that process. Myself, I'd want to approach it very carefully in light of the history that I'm aware of.

Thank you for letting me talk.

MS. ALLEY: Well, I think I already established that the whole issue of the lands and who it belonged to and all of that was extremely confusing to me, and it still is. And so I'm going to focus my remarks more on the program and planning elements of the Trust, and kind of what I understood when I left the Council in '93 or -- somewhere in there, and how I see it now.

And my understanding when I -- when I was on the Council, as this was all being discussed, is that the primary purpose of the Trust was to generate funds, to generate income that was going to be used to
support Beneficiaries of the Trust.

And that -- I think there was --

I think, as Jan alluded to, there was a lot of concern about what is this going to mean in terms of the boards' function. What is this layer going to do to how the boards function. And I know that we had a lot of discussions about that, and I think the intent, what we understood was that the boards would still continue to function in their advocacy role and in their program and planning roles, and that that was not really going to be changed by the Trust coming into play. That they were kind of on our side; they were going to take our issues to the next level; and that we were going to be a big, happy family. I think that was definitely the message, I think, that we all heard at the time.

And I will say that prior to the Trust, the Council annually would prepare our legislative priorities, and our budget priorities, and we would take those to the Legislature. We would present them to them, and we would have a meeting with the Joint House Committee where we formally presented
them. And I think that that was a really
important piece of the Council's work. We
spent a lot of time preparing for that, and we
felt like we personally delivered our message
to the legislators; and that that was an
important function.

So, that, I think, has changed a
bit since the Trust has come into play, and I
think that we -- you know, that we don't
necessarily have as strong a connection
directly to the Legislature as we did at that
time.

Kind of -- you know, my sense of
how we've done -- I think that the Trust is
still rather confusing to the Beneficiaries
and to the general public. I can say that
from working on the inside as well as, you
know, kind of being in that gap period for
those almost ten years that I wasn't involved
with the Council. And I don't really know how
to make that any less so, but I do think there
is still a sense of confusion about how the
Trust operates, and what the relationships are
between the boards and the Trust, that we
might want to consider, you know, working on
this as best we can.

And I think the concern about the layer is probably still a valid concern. I think the boards sometimes are seen as -- well, we have -- where we used to have the boards directly to the Legislature, now we have the boards to the Trust to the Legislature. And I think that boards worry that the purity of their message is maybe not always communicated in the way that they intended or, you know, that there's the -- the possibility that that can happen. I think there's concern on the boards' part about that.

But, in general, I think that the Trust has brought great things to the State and great things to the Beneficiary groups that we all appreciate and we're very fortunate to have. I know that it's made a lot of difference for many people with developmental disabilities and all the others.

Another thing that I think is changed is that four boards are working much more closely together. That, previously, we were pretty isolated boards that didn't really
have much reason to connect and to work
together. Whereas now we're spending a lot of
time working together, and we do see our
Beneficiaries as being -- as crossing many of
our board groups. So I think that has been a
real positive change as a result of the Trust.
Those are some of my thoughts.

MR. APPEL: When the final class
definitions came out in 1994 for the
Beneficiaries of the Mental Health Trust,
that, of course, included seniors who were
senile and suffered from mental illness. At
that same time, in 1994, the Legislature
amended statutes that established the
Commission on Aging as the organization that
would represent those Alaskans that were
affected by Alzheimer's disease and related
disorders for the Alaska Mental Health Trust.
And that enabling statutes also
specify that the Commission would develop the
plans that would address the needs of such
individuals. Since that time, of course,
numerous proposals have been submitted through
the Commission to serve the needs of the ADRD
beneficiaries. I'll just mention a few of
these grant programs that have been funded through the years. Initially, there were a lot of programs related to training, developing informational materials and education. Some of these included ADRD assessment and training, ADRD care consultation to day care, distance education to the rural areas, the development of informational kits and respite videos, and the developing of support groups for day care families.

I think two of the significant and successful programs out there in the last ten years were the mini-grant programs and innovative respite. And the mini-grant program funded dental, vision, hearing, assistive equipment or modifications, medication for beneficiaries. These were all items that were not covered by other funding. So, the Trust was funding significantly needed items out there that would not be funded elsewhere. Again, this is providing services to low-income individuals.

And similarly, innovative respite provided services not available through other
programs. That respite was more flexible in determining who receives the services and how it has been provided. And I think from feedback that was received by the Alzheimer's agency and so forth, those programs have been tremendously successful.

Recently, the Trust planning is focused on a few major areas. Housing is one of those areas that senior advocates have a particular interest in; and we think that's going to be a valuable initiative.

I'm not sure that I can speak for all senior advocates, but I believe the Trust has done a good job over the years. I think that as a senior advocate, many of us are worried about the significant increase in the senior population, and I think the projections are that it's going to triple in the next 15 or 20 years. And we've really -- and I -- the other significant aspect of that is that Alaska has a large senior population that's in the low-income category. And so I think that we need to recognize and we need to be able to plan in dealing with issues that are going to face us because of that increasing senior
population. I think the Trust can help us deal with those issues, help us plan and -- and get some resources out there to deal with this.

MS. LANIER: Thank you.

Mr. Page.

MR. PAGE: I've kind of got so much to say that I'm afraid to get started.

MS. LANIER: We do want to allow some time for questions.

MR. PAGE: I think that's important, so I'm going to keep my comments as limited as I can. They'll throw me out of the Bar Association if I don't talk a little bit. What I've decided to do is set up a soapbox over the sky bridge. Anybody over the next three hours who wants to listen to me wind down can do that.

You know, I consider myself actually to be a true conservative. I think Senator Taylor would probably agree with me that a true conservative is not somebody who is afraid of or against change. But a true conservative is somebody who wants to understand and appreciate how things got to be
the way they are before they start fiddling
with it. The comments I want to make are just
to talk about how things were before the
settlement and how they might be today.

Jim spent many years disagreeing
with this, but there were many people who
believed that we could have ended up --
without violating the Federal Trust that was
first set up in the '50s, we could have ended
up with the State as a trustee, with a paper
trust in which there was title held in a
particular thing that was called the Mental
Health Trust, but with the Legislature simply
making bookkeeping entries, charging against
that trust the cost of running mental health
programs; and that would have constituted, in
some people's minds, an appropriate
reconstitution of the Trust, even after the
Supreme Court said that the State had done a
terrible job of being trustee up to that date.

There would have been no Trust
Authority, no independent spending ability, no
requirement of the existence of any advocacy
boards. There would have been no selection
process where the governor had to consider the
input of people involved in advocating on behalf of Beneficiaries before Trustees were selected. There would have been no requirement of an explanation for how the State was spending its money, and, in fact, there would not necessarily have even been a recognition that the State had an obligation to spend money on people who are our Beneficiaries. And there were, over the period of time that we've been talking about, a number of very serious proposals to settle or resolve the litigation that Jim and others advanced so well. That would have pretty much created that kind of a paper tiger trust. And so I think it's important to remember that when we got the settlement that we got, we got some things that we're all now used to because it's ten years old. Let's remember how we got here. We got a Trust Authority that is separate from the State. We got, as Senator Taylor so very clearly and accurately described, the right to spend the Trust's money independent of legislative appropriation. That is, as he said, probably the single most important thing
that we could have gotten out of that
settlement.

We have a Trust Land Office,
which although it is set up as part of the
Department of Natural Resources, was intended
and has, in fact, been operating as an
independent entity working on behalf of the
Beneficiaries. We got a requirement for
consultation on a comprehensive integrated
mental health plan. And we got the power to
be a major player in the legislative budget
process. And finally, we got the State's
recognition in the settlement documents that
the State retains responsibility primarily for
funding mental health programs for our
Beneficiaries.

And, again, it could have been
something very different from that. I think
let's understand that position before we start
thinking about, gee, what changes need to be
made.

Now, there are some things that
we have done or that maybe we should be doing
differently or there are some things that we
could be doing that we haven't done so far.
But I think it's important to recognize that we have done quite a bit to put meat on the bones of the skeleton of this Trust. I sat there -- I remember very well sitting in Providence Hospital's conference room at the very first meeting of the Board of Trustees and Mental Health Trust ten years ago. That was a blank slate. The statute says that we have to do certain things. Doesn't say how we have to do those things. Doesn't say who we have to talk to. Doesn't say what things we have to do or what procedures we go through to do those things. All of that came and was created over the last ten years out of the good faith and hard work of you, the Trustees, and I will say members of public and members of the government.

It has been a work of good faith.

I think that what we can remember and what we can continue to do is work hard to make sure that the Trust continues its responsibilities. Because -- I'm slightly biased on this thing. I think the strength of the thing that you have going for you is the Trust Authority in terms of the ability to
influence public policy.

I did go through and re-read the 140-page settlement document that Judge Greene wrote when she approved this settlement. Here are a couple of the things that she said. She said: It is the Court's judgment that even if the reconstituted Trust never earns enough money to support the mental health program, the Trust Authority and program changes made in the statutes should provide real improvement in the lives of the Beneficiaries. For this reason, the Court considers the Trust Authority, with all its power and its advocacy position, to be a fundamental and significant part of this settlement. And she said: Without it, the Court probably would not have granted final approval.

It is clear that the sometimes powerless have been empowered. The Trust Authority can be a powerful advocate to the real needs of those who have so much difficulty advocating for themselves.

That is the vision that I have for the Trust Authority. It's what I have tried and I know the other Trustees have tried
to create over the last ten years, along with you, and we will continue to do that as long as I am involved with the Trust. I expect to be involved in Trust issues for the rest of my life.

MS. LANIER: Thank you.

We will have questions.

Anybody --

MR. COPE: I think one of the most --

MS. LANIER: Could you introduce yourself?

MR. COPE: I'm Fred Cope. I've been hanging around the system when for a while. The first I heard of the Trust when I arrived in Fairbanks, and somebody called me up and said, "Can I cut my wood from your land?"

Then I said, "What?" I was with the community mental health center. He was referring to the mental health lands which he had just been told you cannot touch those lands where to get your wood. That was kind of my introduction to the thing.

A little while after that,
somebody introduced me to this funny-looking attorney from Anchorage that had come up. This guy by the name of Jeff Jessee. And another possible anecdote is that one point we were talking about because of the very strange bedfellows that developed in this fight, where the Republicans who normally were the people we didn't talk to about social issues, were really fighting it and people like Betty Fahrenkamp who was sitting as a real key chairman of the resources committee and was actually stopping this bill from proceeding. We were talking about changing the name of the Fahrenkamp Center to the Coghill Center.

Anyway, my question is -- Jim Gottstein brought out, and I think perhaps the most significant thing that needs to be addressed and the big unspoken question, and it's the gorilla in the next room about our system. We are basing our whole system of care on Medicaid. Medicaid is an anti-poverty issue. In other words, basically, to get services, you need to be poor first. Now, admittedly, a lot of people, because of the disabling conditions they are, end up in that
category; but we have actually made a system, and we're getting more and more in that. We take a big cut last year in children's services, a big cut for services for the chronically mentally ill. The response was, "You can make it up with Medicaid." The question is: What does this group, and you as individuals, feel? Is this the right way to build our system? Totally dependent on a system that demands people be poor before they can get services? Are we only going to serve in our state people who are poor?

MS. LANIER: Anybody want to take a stab at that?

MR. GOTTSTEIN: Does anybody have a question about my views on it?

A SPEAKER: I thought that was a question to you.

MR. PAGE: I have two words. Fiscal plan. As long as this state and the citizens of this state are unwilling to do anything -- to pay for government in any way other than through what is essentially free money and are unwilling to take responsibility for paying for the funds financing government
and the services that are appropriate for
government, we're going to be faced with
cutting budgets. And that means that we have
an advocacy job ahead of us. Because the
easiest place to cut in the state budget, as
everyone knows, is the people where people
won't scream. And that means oftentimes the
people who are disadvantaged.

MS. LANIER: Thank you.

SENATOR TAYLOR: I'd suggest
another alternative maybe, as one --

MR. FELIX: Speak up.

SENATOR TAYLOR: The fiscal plan
that my good friend, Nelson, refers to, and I
certainly think there's validity to that
comment. We don't have a city out there in
this state that has a fiscal plan. I'm not
sure what the fiscal plan of the Trust is
right now. I think, in fact, they probably
have a better fiscal plan than any of the
other governmental entities I can refer to,
because as land managers and managers of --
with a fiduciary obligation of a bank account,
they're held to a different standard, and it's
a higher standard. So -- but the
quintessential question that you raise is one that the Legislature did not address in this enabling act. We did not specify to whom you should give services within your Beneficiary group or how you should allocate those precious funds that you have. And I think it has to have been a horribly difficult decision for board members; it probably is annually. Because the need is always going to be so far beyond what the resources are. How do you then allocate those resources to get the greatest bang for the buck back to the Beneficiaries group?

And that's got to be a painful process to go through when you don't have enough money, and then how do you allocate that which you do have?

Well, unfortunately, as Jim indicated, I think all this is a parroting or a responding to the easiest opportunity, which is, well, we can turn to federal funds -- if we drop our qualification categories funds to meet them, we can use Medicaid and that will stretch our dollars. That's probably a fine response. I don't criticize that. But this
board has sufficient autonomy. It could
choose to fund the millionaire's kid at the
same level that it's funding the other
person's kid. You know what I mean? That
could be a choice. And -- I'm rather proud
that we didn't try to legislate those
categories or how that allocation should
occur, because I think the Beneficiary groups
will in the long run do a much better job, a
comprehensive job of doing that.

MS. LANIER: Tom, Jim, Tracy,
Nelson.

MR. BRUCE: Senator Taylor brings
up a point, ongoing point. Some of the panel
members brought it up earlier. When the Trust
was established we enjoyed relatively high
levels of the attentions and concerns of the
needs of the four beneficiary groups. I think
we're going through a point in time or have
gone through a point in time where the
Legislature and the Administration have turned
their back, and it's left the Trust Authority
in a very unenviable position of trying to,
you know, bridge gaps, fill holes where they
really have no responsibility, or shouldn't
have a responsibility. Where the Legislature has had a failure in funding, where the Administration has had a failure in advocating for that funding, or even purporting to support the cuts that have gone to undermine the settlement issues.

So I think that's something -- I mean the Trust Authority has been -- is this guide that's running around like at the Chinese acrobatic things where the guy is spinning the plates on about 15 different poles, and they can't spin those plates all the time. Generally, some of those plates fall and break. And when that happens, there's major concerns.

MS. LANIER: Jim, Tracy, Nelson.

MR. GOTTSTEIN: Yeah, I think Senator Taylor made a really good point about the settlement not really specifying these issues and giving these -- the four boards the role in evaluating the program, making recommendations to the Trust which then integrates them, you know, and then makes, you know, formal recommendations to this -- the governor and the Legislature. I think that
really, and that's -- and I absolutely agree
with Nelson about the importance of, you know,
that aspect of the settlement as being -- as
being a key part of it.

And -- but I think on this issue
of Medicaid, it's not strictly an issue of
whether or not -- obviously -- it's not an
issue of paying for millionaires' kids or not,
or paying for people that can afford it or
not. It's -- from my perspective, it is the
structure of a system that really requires --
requires people to be or get poor and to stay
poor, and requires people to basically be
certified that they're going to be permanently
disabled in order to get services.

And that's something I think that
really needs to be worked at, and I think it
can be worked at within the structure of
looking at current Medicaid regulations, and
even possibly looking at some waivers from the
Federal Government. Because they're looking
at ways to reduce costs, too. And my point
is -- and these are related -- is the way that
the Medicaid regulations and -- you know, and
this whole medication issue, is it in the long
run -- in my view, there's no question that it ends up costing more money, because we're taking a lot of people that really could and should get better and we're keeping them poor. We're keeping them out of jobs. We're keeping them disabled. And a very significant portion, maybe as much as two-thirds of the people diagnosed with serious mental illness could get better and get jobs and no longer be, basically, on the -- you know, a burden to the public fisc. My point in bringing that up here is that I think that that's something that the board really -- the Beneficiaries are counting on the Board to be really looking at these sorts of things and making recommendations on that, and moving them to the Trust, and have the Trust really push on that issue to make the lives of the Beneficiaries better.

And I want to just mention a couple other things about -- I think the Trust has been incredibly innovative in the way -- and effective in the way that it's used its money. Really, unbelievably, both in all of the innovation as coming from the Trust and it
really has done some marvelous things on that.

And -- and it's interesting
because I had no intention of -- and really
don't think that I did argue about the merits
of the settlement or not, and I certainly
didn't think I was kind of re-opening that and
disapproving other, and all that. All I did
was describe my role in it. But I do have a
firm -- firm view that I think we all should
be willing to live with the settlement, but we
also should insist that everybody live up to
the settlement. And that's kind of my key
point.

MS. LANIER: Thank you.

SENATOR TAYLOR: I want to make
one quick comment on Jim's -- right on. As
Tom indicated, too, this is my own perception
and hopefully my colleagues in the Legislature
who are still serving will forgive me for
this. But throughout this arduous process and
throughout my 19 years of experience there, I
came away with this one conclusion and that
is: That the Legislature has never understood
their fiduciary obligation as the ultimate
Trustees. Because even though the Board has
been appointed, the litigation took place, you had the Supreme Court bless it, and the Legislature passed it, the Legislature still does not truly understand that they are the ultimate trustees. And just as Nelson pointed out, in Judge Green's opinion, they bear the ultimate responsibility for funding. Because just as we inherited the Haines Eagle Preserve, we don't know that we can generate enough off these lands. This has been a big experiment, really, folks. We don't know if we generate enough money to ever begin to pay the costs of these programs. And the legislation recognized that and said we'll make the best effort we can at getting money off our land, but we do not expect to ever be able to pay the full cost of these programs out of just our land management on our Trust lands. Therefore, you, the Legislature, bear ultimate responsibility, and they signed off and agreed to that.

The problem is, we really don't have a way, a mechanism -- I don't know how you ever create one -- of enforcing that. It just continues to be a give and take between
the board recognizing the need and the
Legislature recognizing, yes, there are some
amounts we've got to load back in because they
ain't making enough money off their lands yet.
Legislative keeps hoping that you're going to
make billions off it.

MS. LANIER: We have to keep
moving here.

SENATOR TAYLOR: That's the
point. Until you people can explain to each
individual legislator, it's a different hat
they're wearing when they sit down with mental
health. I don't think they've yet recognized
that.

MS. BARBEE: Is your name Frank?

MR. COPE: Fred.

MS. BARBEE: The comments you
made about poverty. I work in an organization
that deals with family members and consumers
with mental illness. And I think about one
family when he mentions that where they were
borrowing money from her mother because she
couldn't work because if she worked then they
no longer would be able to get assistance for
her daughter who had bipolar disorder. That's
so very true. That's where the people in the state are getting assistance are people that are at the poverty level and staying there purposefully for that reason. What would happen if they worked? They would no longer have Denali Family Kid Care for the daughter. The daughter would be shipped Outside and would be one of the $3 million that it's costing to have the kids out of state.

My own personal situation. My husband and I ended up $40,000 in debt after my son was hospitalized twice for bipolar disorder. And one of the answers to his question is parenting. My family made enough money that we could afford insurance which, of course, for mental health is only 50 percent. We ended up with that kind of debt. If a parity existed, if we could get parity passed at the state or federal level, we could afford to have insurance to pay for my son when he needs to.

MR. PAGE: I'm going to defer my comments. I think we ought to get more questions.

MR. SMITH: I'm Doug Smith. I'm
a fairly new member to the Mental Health Board. I need a lot of education. I felt I learned more about the Trust than the Mental Health Board. I wondered if people could say more to the settlement, what it leads to the Mental Health Board's responsibility, and how to fulfill those. Particularly now, kind of adding to that situation, the situation has evolved so the services delivery had -- it's more integrated between drug and alcohol. We're struggling how do we best meet the responsibilities to our Beneficiaries to the evolution that has happened. It may not be the same old way. Maybe people have thoughts about that that were part of the same old way originally.

MR. GOTTSTEIN: I think -- I can more easily answer the first question. I don't know about answer, but respond to it, which is the way that the settlement is structured is that the boards are -- with respect to their beneficiary group -- supposed to basically evaluate the program and then make recommendations both programmatically and budgetarily that go to the Trust. Then the
Trust -- and so -- I said that, and -- and it's maybe -- doesn't sound like that's a lot for the board to do, but it's really very, very critical, and it is the big piece. And so -- and then what happens is then the Trust takes all four boards' recommendations and develops what's called the Integrative Comprehensive Mental Health Program, and that becomes -- that goes to the Governor and the Legislature. And so -- I don't know. I don't know what more to say. It doesn't sound like a lot.

MR. SMITH: Advisory to the Trust, not the Legislature or Governor?

MR. GOTTSTEIN: The boards -- all four boards have traditionally had direct contacts with the Legislature, and there's always been, I think, the idea that it would be very beneficial for there to kind of be a single voice on the whole mental health program. And there's been a certain amount of tension with the various boards thinking would they really want to get their oar in the water on specific things that are relevant to the board. I think that's kind of an inherent
tension. Maybe intention is too strong a word or too weak a word.

MS. LANIER: Matt, Nelson, and then did you have your hand up, Frank.

MR. FELIX: Real quickly. I think to answer both questions, really, is the key word that Nelson read in Judge Greene's decision there or summary, and that we've all mentioned here, and that's advocacy. I think the role of the boards and the role of everybody in this room is to be advocates for the Beneficiaries.

These trends of Medicaid or poverty focus with the trends of the next Administration or next Legislature, and you and I call them trends truly coming from time to time, you're going to all find that what's important today is not going to be important tomorrow. And, you know, your problems with having to create poverty for your clients to keep them in is probably not going to be as important as it was today in the future. But the key thing over time, no matter what government thinks in terms of what's going to work as a trend, is to advocate for these
people. These people do not advocate for themselves. That's the one common thing they have. They are not in a position to advocate for themselves. And the boards and everybody in this room must advocate for them. And I'm sure everybody in this room has a favorite beneficiary group. Advocate for that group at the Legislature, through the boards, and personally, because they don't advocate for themselves.

Like Judge Greene said, a key part of the settlement is to have advocates. The State doesn't steal your land again, doesn't steal it again, or some program doesn't come along from government that makes them less than important as they should be.

MS. LANIER: Nelson.

MR. PAGE: Yeah. I think you're getting the heart of one of the reasons we're having this board or this panel. The Trust's enabling statute says that the purpose of the Trust Authority is to ensure an integrated comprehensive mental health program. That's about the broadest definition of responsibility I can think of.
And it is clear to me that as a fiduciary, my responsibility runs to the Beneficiaries directly. It does not run to the boards. If I think that the boards are suggesting something and I disagree that that's the best way to go on behalf of the Beneficiaries, then it is my duty to go with my own sense as to what is important and what isn't. So, that is one of the reasons that there can be, at times, some built-in tension between the Trust and the various boards. Ultimately, you just have to live with the fact that Trustees have the money and they have the statutory responsibility; and they have the legal fiduciary responsibility to do the best they can in their view for the Beneficiaries, even if other people disagree. The statutory authority for the Mental Health Boards includes a number of things. One of those is to provide for the Trust Authority for its review and consideration recommendations regarding the comprehensive plan and how to use the Trust's money. And so, as I have said to others before at different points, again, putting
meat on the skeleton that was just the initial
words of that statute, we probably as Trust
Authority members could meet the letter of the
law by giving the Mental Health Board an hour
at one of our annual meetings for you to
present your recommendations and for you to
talk about how you think we ought to spend our
money. And a good lawyer and a judge would
probably agree that we had met our
responsibility.

But we don't think that's the
right way to go. We think that the boards are
much more important than that, and we have
always incorporated, as you well know,
sometimes to your dismay -- we've always
expected a very active role on the part of the
boards to come to us with budget
recommendations. So, that, at least, is one
of the most important things that I think is a
relationship between the Trust and the boards.

MS. LANIER: Thank you, Nelson.

Frank, and then Jan.

MR. APPEL: I was going to
suggest, Jim mentioned the advisory role, but
I think it's a little bit more comprehensive
than that, and I think Nelson mentioned that.

The boards actively participate in the planning process, which is fairly comprehensive and considerable involvement.

MR. PAGE: And I think -- if I may, I think to go back on to the first point that was made, we always are advocating on behalf of the same group of people. And one of the things that we can continue to do and can do a better job of is coordinating our advocacy.

MS. LANIER: Jan said --

MS. McGILLIVARY: My colleague said the word "planning." That's what I was going to add to the boards' role. Planning. I believe we build a plan and then work it. And that's something I hope the Mental Health Board continues to do.

MS. LANIER: One more question in the audience. I'm going to ask everybody to keep your answers brief as possible. We're almost out of time. You're on, Jamie.

MS. DAKIS: I'm Jamie Dakis. I'm an artist that just moved to Anchorage. I'm a consumer who just found out about all of this
stuff in 1999, and I've been coming as a consumer myself, and I haven't gotten a forward positive movement until I became involved in the Alaska Mental Health Board and met people who knew about the Trust. And this was, unfortunately, after my 24-year-old daughter died of suicide because she, too, was a consumer who did not know about all of this. We've been here eight years. You know me, Tom.

Jim, you know me, and thank you. All of you people are noble in your efforts.

My concern here is that I have heard of power, powerlessness, and empowerment. And I have heard that there's a contract and it's either opened up already with the lawsuit present pending or -- and I've heard people concerned about that settlement being reopened. And I've also heard that people are recommending merging or not merging the Alaska Mental Health Board with the Alaska Substance Abuse -- can't we all just work together? What's going on? And where is this power being divided? Is it
being divided upon people who want to go ahead
and rely on Medicaid? I'm asking you, is that
part of the contract? Or is it being the
Beneficiaries who individually are empowered
by the contract that somehow brings them forth
from the depth of hell, of where I've come
from, the streets, as an addict, recovering --
recovered -- not yet. I got -- still need
therapy.

As a mentally ill human being
recovering, recovered, not yet. I need a lot
of help.

And in order to get that help, I
need to be permanently disabled, okay?
Okay. I need to be crawling on
my knees, and saying, "I need help. Oh, woe
is me." I'm not. I'm powerful. I'm
empowered. And I want to know if right now
this Mental Health Board is making the
decision to merge or not to merge or whether
or not that keeps anybody less empowered than
I am right now? When these people were mixed
up in Oregon as alcoholics or drug addicts or
mentally ill, what's the difference, if none
of them have power?
That's my question.

SENATOR TAYLOR: I'll take it on.

Thank God we passed the legislation we had. To provide a group of people who can sit in a room like this, make their own financial decisions, make their own decisions on advocacy. Make their own decisions, good or bad, on parity and anything else. At least we've got somebody empowered now to do that. Their decisions aren't always going to be correct or hopefully incorrect. Thank God there's a group of people trying and doing it and we have a greater focus and advocacy, at least to the extent of their budget, than we ever had before. And -- and that's recognized in both our Supreme Court and in our legislative halls.

If somebody is going to change it -- your question about merging, if somebody is going to change it, the Supreme Court has to approve that, and the Legislature has to approve that, and the advocacy groups have to be consulted. All of those are great things. I'm very proud of those things that we are moving along. I'm very proud of the fact, to
the question you asked, that that autonomy is
still there. Nobody tried to dictate to you
how you solved those questions. It's a
frightening thing as a board member why we do
this stuff. You do it -- the best thing that
we want to do.

The last point is she has raised
a very good point. It's one thing to advocate
to the boards, that's an in-house fight.
That's an in-game point. Everyone in this
room needs to take a legislator to lunch.
Right --

MR. BRUCE: Absolutely.

SENATOR TAYLOR: You need to sit
down with them, pour them a cup of coffee.
You need to explain to them: You have a
fiduciary relationship to these clients and
these relationships, No. 1. No. 2, they need
to ask the question: What are you going to do
to carry out your obligation to Judge Greene's
order when you get to Juneau this year? All
of you can do that. All these legislators are
your next-door neighbors and friends down the
street. They're happy to sit down with you.
Believe me, most of them do not know what
their obligation is. Most of them do not know
what the level of need is. They do not know
about parity and the fact that they're forcing
people to do things like this.

I came from a time where I sat on
the district court bench for six years. If
they need help with their child, I told them,
"Give the kid a rock and throw it in a room."
We can get a cop to pick him up and get him in
a rubber room. If you went through the
arduous process, social workers, applications,
it might take six months, and the poor guy
would be dead. We had him throw a rock
through a window. We ain't throwing rocks on
the windows. We've got some good people on
the street. We've got some programs going.
I'm so proud of what you're doing. We're very
proud of what we've only advocated for and
what you have accomplished.

MS. LANIER: We're out of time,
so it's up to everybody -- I'd love to hear
from Mr. Younker, if anybody else would.

MR. YOUNKER: A couple of real
quick comments. I served on the Trust for the
last three years, filling a position that my
son was as an original Trustee. A couple of points I really want to point out as a Trustee is one of the first things I learned was the Trust was never there to supplant the General Budget's obligation. That's been made here. And so I would like to follow up from what Senator Taylor said. When you pour that cup of coffee, that's got to be the premise that you start talking to your legislators about.

SENATOR TAYLOR: That's right.

MR. YOUNKER: Secondly, I think you have to recognize that when we go through these economic times that we see, government's responsibility really is not to take care of the entire population. It takes care of that part of the population that can't take care of themselves. That's why the Medicaid people tend to rise to the top when they look at the programs that the government and the Trusts are doing. That's just the way our society is designed. That's because we're a free enterprise society. I pay my own bills. I thank them for that. That's the way it's designed.

Lastly, I think that the Trust
needs to be given credit, that as we go
through these economic times, we designed a
model that when we decide to fund a program
for three to five years, our model guarantees
us, in the worst economic time since 1929,
we've never missed a payment. The State did.
They reduced the General Fund budget by
millions of dollars. The Science and Tech
Trust went broke. They didn't pay out
anything. And so as the Trustees have worked
in the past and will continue, that's one of
the things I think you have to recognize is
that we're not there to supplant the State.
But when we take something on, we're there to
guarantee to see it through to fruition. I
think that's extremely important as you design
programs and as you come into the Trustees
with your recommendations for programs,
sometimes you get turned down, as Nelson said.
When you got the bucks, it doesn't make it
easier; it makes it harder. It's easier to
ask for a few bucks. If you only have a few,
it's harder to decide.

MS. LANIER: We have a couple
quick things we need to do. It is lunchtime.
I want to thank everybody. It was great.
What I hoped for was education and different
viewpoints from all the connecting folks.