02.18 CLOSING INSTRUCTIONS — VIEWS

During the trial you were permitted to visit (insert description of the premises). In your deliberations, you may take into account what you observed at [place].

# Use Note

This instruction only need be given when the jury was permitted to have a view, which is controlled by Alaska R. Civ. P. 48(c).

# Comment

In some jurisdictions a view is deemed to be something other than evidence. The jury is told that it can consider the view as it helps in understanding the evidence, but that the view itself is not additional evidence. See R. Lempart & S. Saltzburg, A Modern Approach to Evidence 1084 (1977); C. McCormick, Handbook on the Law of Evidence 539 (2d Ad. 1972). The reason for this approach is obvious: appellate courts cannot know what the jury learned at the view and cannot review this “evidence.”

This instruction does not tell the jury that a view is not evidence, because such an instruction is likely to confuse the jury. It tells the jury that it may consider what it learned from the view during deliberations.