

would have power to prepare or to authorize and coordinate the preparation and production by others of a documentary film covering this important portion of Alaska's history. Such a history should include but not be limited to the stills and motion pictures already in existence, but should include additional visual components as may be appropriate. Such a project should be completed by June 30, 1986.

A conceptual organization structure for executing this project is shown in Figure 1.

C O N T E N T S

Part I. Facts of Aircraft and Aircraft Parts, Flyable and Non-Flyable, that Left the State of Alaska.

- Page 1. Douglas C-38F Aircraft that left the state of Alaska in 1968.
- Page 2. Flying Magazine add in June 1980 regarding the removal of two P-39 Airacobras from Alaska. Six years ago two P-39 Airacobras were located at Minchumina Lake. In 1982 approximately \$10,000 were spent by a company to retrieve these aircraft. The group found out these were no longer there. We suspected that the aircraft mentioned in the Flying Magazine add are the same ones that were in Minchumina Lake.
- Page 3. A letter to Mr. Aldrich in California who sells vintage airplane parts. He sent to the USHAPM the original letter of Mr. Steve Matthews of Fairbanks who illegally removed airplane parts from state land and was attempting to sell them. The present whereabouts of the parts are unknown.
- Page 4. Photographs of two P-39 Airacobras on state land near Fairbanks. For the past four years illegal salvagings had been done to these.
- Page 5. Alaska Magazine Jan. 1981 two articles about a Stinson aircraft that was removed from the dump at Merrill Field, Anchorage and which is now on display at Seattle. The man who removed the aircraft, J. Berry, also removed in the early 1970's a P-40 aircraft from the Alaskan bush which was later transported to the Lower 48.
- Page 6 and 7. An article from a vintage/WW II aircraft book regarding the removal of a P-40 from the Aleutians.
- Page 8 thru 12. A Flying Magazine article regarding the removal of one P-40, four P-51 Mustangs, and three other P-50 Mustangs that were just removed for parts out of the state of Alaska.
- Page 13. Photographs of the P-40 that was removed from the Aleutians.
- Page 14. Oct. 1978 Alaska Magazine article on donation of a P-39 Airacobra's wing portion to the Lower 48.
- Page 15. Air Classics Magazine 1979 article with photographs of mutilation of a Lend Lease Russian aircraft's wing which is now in Ohio.
- Page 16. A letter from Dept. of Interior regarding the unlawful removal of aircraft parts from Amchitka Island. The two individuals who were involved in this unlawful act were fined \$500 each.
- Page 17 and 18. A letter from the Smithsonian Institution about the removal of a Navy OS2U Kingfisher from Afognak Island. The aircraft is now on loan from Smithsonian to Bradley Museum in Connecticut.

C O N T E N T S

Part I. Continued

- Page 19. A Douglas SBD-5 Dauntless wing which wa. in the Aleutian but is now in California.
- Page 20. Four photographs of helicopter parts and aircraft parts being shipped by Sealand from Anchorage to California.
- Page 21. B-25 aircraft engines that were donated to an aviation group in Alaska and are now in California.
- Page 22. A letter to Paul Caulkett regarding two B-25 aircraft that were to be used as static display within the state of Alaska.
- Page 23 and 24. A letter from the Alaska Department of Transportation in Fairbanks showing that one of the B-25 aircraft (paragraph 4) was sold to Mr. John C. Morgan by one of the aviation societies in Anchorage.
- Page 25. Two photographs of the B-25 that one of them was sold to Calif.
- Page 26. Alaska Magazine Dec. 1980 article on a Stearman that was in Alaska and is now in the Lower 48. (If interested, a copy of the article can be provided.)"
- Page 27. Three photographs of P-38 Lightning which was removed from Alaska and is now in California.
- Page 28. A letter from State of Alaska, Dept. of Natural Resources regarding the attempts of Castle AFB in California to remove the remains of a P-38 from the Aleutians.
- Page 29. Air Classics Magazine April 1981 article on A-26 Invader that was given to California as a donation.
- Page 30. Two photos of the A-26 flyable aircraft that ^{was} donated to Calif.
- Page 31. Top - photo of the three B-25's which two of them left the state of Alaska. Destination unknown. Bottom - another photo of the A-26 that was donated to California.
- Page 32. Picture of a B-25 flyable aircraft that is now in California.
- Page 33. A Lockheed Constellation that was donated to City of Kenai, later was sold for \$30,000 and is now in Florida.

Part II. Aircraft and artifacts that had left the state of Alaska which cannot be stated as illegally been salvaged. Records at the Air Force Rescue Coordination Center at Elmendorf AFB show these WW II aircraft are no longer in their crash sites, there are no indication of their present whereabouts, or who retrieved them. Reports from bush pilots, who spotted the aircraft earlier, show that the same aircraft are no longer in their crash sites.

C O N T E N T S

Part II. Continued

1. Buldir Island in the Aleutians: The crashed P-38 Lightning's complete booms (two) and vertical stabilizer were removed two years ago. Can be verified thru Dept. of Fish and Wildlife.
2. A Lend Lease P-40, which crashed in 1944 in Nome area, was found in 1978. The aircraft was no longer there in 1982. Verified through bush pilots.
3. A Canadian P-40 that was located in 1968 was not there in 1976. The aircraft was completely removed. Only a few remaining parts are there. Verified through bush pilots.
4. P-51 Mustang, which crashed in 1944 at Broad Pass, was removed in early 1970's by an Anchorage resident couple and was shipped to the Lower 48. Also the husband removed P-40 parts of four aircraft that are on Unalaska in the Aleutians. This can be verified through U.S. Hist. Aircraft Preservation Museum.
5. WW II aircraft parts from Nome, Fairbanks and Northway that were removed three years ago and are now in Lower 48. Can be verified through USHAFM.
6. A vintage aircraft that crashed in Ketchikan: Its parts were removed for souvenir and are still in Alaska. Can be verified through USHAFM.
7. There are numerous stories told by state agencies, the local military, bush pilots and individuals that know, had seen, and have been involved in the removal of WW II aircraft, aircraft parts, and artifacts out of the state of Alaska.

If at the present time there were laws protecting the WW II aircraft and artifacts, these individuals and groups of people in the state of Alaska can be checked out and their residences be searched to prove the statements. The USHAFM knows several of these people.

It is difficult to prove that there is illegal salvaging of WW II aircraft, aircraft parts, and artifacts because the individuals who are involved are never caught. The only way we can prove that such a thing is happening is when these aircraft and aircraft parts come to surface in private hands and/or in the Lower 48 when the serial numbers and tail numbers can be verified that they came out of the state of Alaska. This takes time of hours and years. Alaska is slowly being stripped of its WW II aircraft, aircraft parts and materials that the average persons do not realize it till they are actually involved in the research of the WW II artifacts and materials in the state and in the Aleutians.

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Preservation of Alaska's Historic Aircraft

Conference Summary

Introduction

Aviation has been essential to the development of Alaska. As a result, aviation is a fundamental and important part of Alaska's history.

Preservation of the state's aviation heritage is carried out by a number of organizations and agencies.

There are numerous non-profit organizations dedicated to preservation of aviation history, (see Attachment "A" for a list of participants and organizations). These organizations are active in recovery and/or restoration of historical aircraft, aviation history research and collection of aviation oral history and archival materials.

The Alaska State Museum in Juneau (Division of Libraries and Museums, Department of Education) and the Office of History and Archaeology (Alaska State Parks, Department of Natural Resources) are also involved in aviation history. The Alaska State Museum (ASM) has met with representatives of most historic aircraft preservation needs. The Office of History and Archaeology (OHA) has (1) listed a number of historic aircraft on the Alaska Heritage Resources Survey, (2) encouraged the nomination of historic aircraft to the National Register of Historic Places, and (3) provided protection under federal and state preservation acts for several downed historic aircraft.

expected to continue through the review process to the hoped-for legislative consideration and implementation.

The Conference

Individuals and members of organizations actively concerned with the issues of preservation, ownership and protection of historic aircraft were invited to participate in the two day conference. A total of 25 invitations were sent, with 17 acceptances being received. Fifteen individuals attended as participants and one person came as an observer. Many participants belonged to several historic aircraft organizations and nearly all of them knew each other. Also at the conference were representatives from the Office of the Governor, Division of State Libraries and Museums, the Alaska Department of Law, the National Park Service, and staff from the co-sponsoring agencies. (See attachment "A") for a list of participants and attendees.)

A proposed agenda had been sent with letters of invitation to the participants for comment. When the conference opened an agenda was ready as follows:

AGENDA

1. Welcoming remarks by Mr. Skip Harding, Deputy Director, Alaska State Parks.
2. General introduction of participants: state and federal officials, historic aircraft organization representatives, and facilitator.

Early discussions regarding the planning of the conference established the practicality of using the services of a professional conference mediator. Such a facilitator would (a) be neutral to issues on the agenda, (b) keep the group working together, and (c) keep discussion focused on the agenda. The facilitator's skills were also invaluable for implementing a proven evaluation and planning process which led to the Action Plan.

Because much of the work would be done in small work groups, facilitators for each group were selected from OHA and ASM staff and counseled beforehand by the facilitator. During the conference, group spokespersons would report the work of the small work groups to the entire gathering. These spokespersons would be selected from the participants of the small work groups, would change with each assignment, and would in no case be the work groups' facilitator.

Credit must be given for part of the success of this conference to Ms. Lisa O'Brien from the Growth Company for her unflagging enthusiasm and fine professional moderation of discussions over the two days.

Mr. Allen Blume, in addressing the group, spoke of the Governor's interest in historic aircraft and aviation history and his desire to work with historic aircraft groups. Blume also pointed out that declining state revenues are a reality that has to be taken into account during the coming years. He indicated that this was an opportunity for state and private interests to work cooperatively in the development of a new program which the Governor would be pleased to review.

Group "A":

- 1) Selecting historic aircraft for preservation.
Ownership of historic aircraft on state, federal and private lands.
- 2) Liabilities attendant to restoring historic aircraft to an airworthy state.

Group "B":

- 1) Deteriorating historic aircraft: methods of on-site preservation.
- 2) Moving downed and endangered aircraft for conservation: resources and permits.
- 3) Conserving and displaying historic aircraft.

Ms. O'Brien led each group through a series of exercises directed at clarifying the shared interests and purposes of the entire group.

Because nearly a full day had been spent with introductions, discussions and preliminary exercises, the conference organizers decided that each work group would concentrate, in the time remaining, on one of the three issues selected for their attention. This would allow a realistic amount of time for the work groups to select and develop an action plan for an issue of their choice.

Although the two work groups chose to begin by working on the first issue on their list, an action plan was, in fact, developed for five of the six issues.

Preservation of Alaska's Historic Aircraft

DRAFT ACTION PLAN

Anchorage, October 6-7, 1983

Issue: I. SELECTING HISTORIC AIRCRAFT FOR PRESERVATION

In order to have a central source of information about downed historic aircraft, it is recommended that an Ad Hoc Aviation Advisory Committee be established with membership consisting of representatives from legally established non-profit organizations. The membership, frequency of meetings, possible assessment of membership fees, and geographical and expertise determination for representation would be resolved at a later date. This committee (AHAAC) will be organized by the participants of this conference. The AHAAC will be mandated to fulfill four primary functions:

- (a) It will establish evaluation criteria and selection guidelines for Alaskan historic aircraft.
- (b) It will formulate priorities for preservation and interpretation of historic aircraft. Included in this category are downed and restored aircraft, as well as related artifacts.

Issue III. LIABILITIES ATTENDANT TO RESTORING HISTORIC AIRCRAFT TO AN AIRWORTHY STATE

There was not enough time to address this issue.

Issue IV. DETERIORATING HISTORIC AIRCRAFT: METHODS OF ON-SITE PRESERVATION

In order to effectively deal with this issue, recommendations are made for OHA and the AHAAC to develop and refine the data base showing all known downed Alaskan aircraft. This work should begin immediately. Upon completion, it will be possible to describe not only the nature of the resource but the scope of the problem as well.

A condition survey should be done as the list is generated. It is recommended that the AHAAC do this survey because it will have access to aircraft, expertise and the ability to reach remote locations.

Federal agencies are mandated to survey and nominate eligible, significant historic structures and objects to the National Register of Historic Places when these resources are on land managed by these agencies. The recommendation is made that federal and state employees doing fieldwork photograph downed aircraft when they are found in the course of their assigned duties. This may be accomplished through an interagency agreement between OHA, the Alaska Division of Geological and Geo-

Interior aviation. These variations were shaped by differences in equipment, flying conditions, pilots and the needs they served. Finally, the concept of regional museums furthers development of local history. Local facilities also provide attractions for tourists who wish to travel outside Anchorage.

This is not a new or an untried concept. The Gold Dome, in Fairbanks, is being developed as an aviation museum as this report is being written. Palmer has a museum with a strong aviation component. A museum dedicated to the bush pilot McKinley has recently been opened and there is a proposal for an aviation museum in Anchorage.

Recommendations for an Anchorage Regional Museum

Application will be made to the state for donations of land at the southeast corner of the Anchorage International Airport. This location is recommended because it is already under state ownership, there is excellent access from a major urban setting, and existing municipal utilities are already in place. The airport facility had the added advantage of good security and a small lake for float plane exhibits. The southeast corner, moreover, is not scheduled for development.

A building will be needed for this facility. Possible funding sources for construction include state grants, donations and combinations thereof. The building should have adequate space for the following uses:

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A new site in Palmer has been secured for the museum. Landscaping and site preparation are being considered. A program has been developed for the first phase of construction at the new site, to include both heated and unheated facilities. Plans are being made to move the museum's collections via volunteer and commercial means. Additional construction over the next six years will be done as needed.

The facility will incorporate heated exhibit areas, restoration shops, public areas, offices, a museum store, and unheated exhibit and public participation shelters. The open areas will be park-like in concept and designed around outdoor exhibits.

The museum has an active education program (to include public outreach involving exhibits), offers assistance to other historical groups, has an active recovery and restoration program, and a library and archive. The staff is striving to create a facility with maximum public function and benefit.

Continuing Work at Fairbanks

The Interior Alaska Arctic Aviation Foundation has secured the Gold Dome in Alaskaland for operation of a museum facility in Fairbanks. In addition, efforts are underway to obtain land and buildings at the Fairbanks International Airport.

ATTACHMENT "A"
PRESERVING ALASKA'S HISTORIC AIRCRAFT CONFERENCE
OCTOBER 6-7 - ANCHORAGE

List of Participants: The following individuals participated in the conference and made the recommendations in the Draft Action Plan.

Major Jim Ruotsala
Public Affairs Director
Civil Air Patrol
806 West 74th
Anchorage, Alaska 99502

Ms. Sherry Innes-Bennett
Denali Wilderness Air-
Bush Pilot Museum
P.O. Box 82
McKinley Park, Alaska 99755

Mr. Ted Spencer, President
Alaska Historical Aircraft Society
6610 Teshlar Drive
Anchorage, Alaska 99507

Mr. Jim Herrick
Airmen's Association
SRA 1506-H
Anchorage, Alaska 99507

Mr. Alfred Fleener
Private Citizen
6212 Collings Way
Anchorage, Alaska 99502

Mr. Everett Long
Interior and Arctic Alaska
Aeronautical Foundation
Ester, Alaska 99725

Mr. John Cooper, Director
The Alaska Historical
and Transportation Museum, Inc.
P.O. Box 820
Palmer, Alaska 99645

Mr. Randy Acord
Queit Birdmen's Fairbanks Hanger
Box 437
178-8th Avenue
Fairbanks, Alaska 99707

Mr. Russ Morrison
CMSGT (Ret.) USAF
Executive Director
Castle Air Museum Foundation, Inc.
P.O. Box 488
Atwater, California 95301

Mr. Syd Stealey
937 Eighth Avenue
Fairbanks, Alaska 99707

Mr. Chuck Diters
U.S. Fish & Wildlife Service
1011 E. Tudor
Anchorage, Alaska 99503

Mr. James W. Hostman
HQ AAC/DEEV
Elmendorf AFB
Anchorage, Alaska 99506

Mr. Bo Bennett
Denali Wilderness Air-Bush Pilot Museum
P.O. Box 82
McKinley Park, Alaska 99755

Mr. Fred Patterson
Castle Air Museum Foundation
P.O. Box 6-1001
Anchorage, Alaska 99502

Mr. R. E. "Bob" MacArthur
U.S.H.A.P.M.
302 Fireweed
Anchorage, Alaska 99504

Ms. Marion Acord
Festival 84
P.O. Box 437
178-8th Avenue
Fairbanks, Alaska 99707

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Distribution List

The Honorable Allen D. Blume
Special Assistant to the Governor
Office of the Governor
Pouch A
Juneau, Alaska 99811

Mr. Alan Munro
Alaska State Museum
Pouch FM
Juneau, Alaska 99811

Mr. Richard B. Engen, Engineer
Libraries and Museums
Department of Education
Pouch G
Juneau, Alaska 99811

Mr. Neil C. Johannsen
Director
Alaska Division of Parks
619 Warehouse Avenue, Suite 210
Anchorage, Alaska 99501

Mr. Skip Harding
Deputy Director
Alaska Division of Parks
619 Warehouse Avenue, Suite 210
Anchorage, Alaska 99501

Mr. Dan Monroe
Alaska State Museum
Pouch FM
Juneau, Alaska 99811

Mr. Joseph W. Geldhof
Assistant Attorney General
Alaska Department of Law
Pouch K
Juneau, Alaska 99811

Ms. Joaquin Estus
National Park Service
2525 Garfield
Anchorage, Alaska 99503

Mr. Jim Herrick
Airmen's Association
SRA 1506-11
Anchorage, Alaska 99507

Major Jim Ruotsala
Public Affairs Director
Civil Air Patrol
806 West 74th
Anchorage, Alaska 99502

Mr. John Cooper, Director
The Alaska Historical and
Transportation Museum, Inc.
P.O. Box 820
Palmer, Alaska 99645

Mr. Everett Long
Interior and Arctic Alaska
Aeronautical Foundation
P.O. Box 1
Ester, Alaska 99725

Mr. Russ Morrison
CMSGT (Ret.) USAF
Executive Director
Castle Air Museum Foundation, Inc.
P.O. Box 488
Atwater, California 95301

Ms. Sherry Innes-Bennett
Denali Wilderness Air-
Bush Pilot Museum
P.O. Box 82
McKinley Park, Alaska 99755

Mr. Ted Spencer, President
Alaska Historical Aircraft Society
6610 Teshlar Drive
Anchorage, Alaska 99507

Mr. James W. Hostman
HQ AAC/DEEV
Elmendorf AFB
Anchorage, Alaska 99506

Mr. Alfred Fleener
6212 Collins Way
Anchorage, Alaska 99502

Mr. Bert Tarrant
Air Alaska Newspaper
3946 Lunar Drive
Anchorage, Alaska 99504

Mr. Fred Patterson
Castle Air Museum Foundation
P.O. Box 6-1001
Anchorage, Alaska 99502

Ms. Renee Blahut, Member
Historic Sites Advisory Committee
Archives
University of Alaska
Fairbanks, Alaska 99701

Mr. R. E. "Bob" MacArthur
U.S.H.A.P.M.
302 Fairweed
Anchorage, Alaska 99504

Mr. Syd Stealey
937 Eighth Avenue
Fairbanks, Alaska 99707

Mr. Chuck Diters
U.S. Fish & Wildlife Service
1011 E. Tudor
Anchorage, Alaska 99503

Mr. Randy Acord
Quiet Birdmen's Fairbanks Hanger
Box 437
178-8th Avenue
Fairbanks, Alaska 99707

Ms. Marion Acord
Festival 84
Box 437
178-8th Avenue
Fairbanks, Alaska 99707

Mr. Bo Bennett
Denali Wilderness Air-
Bush Pilot Museum
P.O. Box 82
McKinley Park, Alaska 99755

Mr. Edwin C. Crittenden, F.A.I.A., Member
Historic Sites Advisory Committee
CCC Architects
431 W. 7th, Suite 100
Anchorage, Alaska 99501

Ms. Jane Galblum Haigh, Member
Historic Sites Advisory Committee
SR Box 50131
Fairbanks, Alaska 99701

Ms. Kathryn Harwood, Member
Historic Sites Advisory Committee
703 Fulton
Fairbanks, Alaska 99707

(3) how it collects or compromises obligations under AS 41.30.020(3).

(b) The board of directors shall adopt substantive regulations implementing the conditions in AS 41.30.040 and 41.30.050. (§ 1 ch 83 SLA 1964)

Sec. 41.30.040. Loans. The board of directors may purchase evidence of indebtedness and make loans to aid in financing a project in a redevelopment area for industrial or commercial usage approved under federal law and qualifying for federal area redevelopment assistance. (§ 1 ch 83 SLA 1964)

Sec. 41.30.050. Limitations on loans. (a) The board of directors may not purchase evidences of indebtedness or make loans to assist establishments to relocate from one area of the state to another.

(b) The board of directors may purchase evidences of indebtedness and make loans only if

(1) redevelopment projects for which assistance is requested have been approved by the board of directors;

(2) the project for which assistance is sought is reasonably calculated to provide more than a temporary alleviation of unemployment or under-employment within the redevelopment area;

(3) the board of directors receives reasonable assurance of repayment.

(c) The board of directors shall not provide assistance in an amount that is more than 10 per cent of the aggregate cost, or more than \$50,000, to the applicant for the particular project.

(d) The board of directors may not make loans at an interest rate less than four per cent.

(e) Assistance extended by the state under this chapter shall in no event exceed the total aggregate of \$2,000,000. (§ 1 ch 83 SLA 1964)

Sec. 41.30.055. Area redevelopment revolving fund. There is established an area redevelopment revolving fund which shall be administered by the board of directors exclusively for the purposes of this chapter. The fund is composed of money appropriated by the legislature to it and any other money made available for the purposes of this chapter. (§ 1 ch 83 SLA 1964)

Sec. 41.30.060. Accounts and deposit. The commissioner of revenue is ex officio the treasurer and custodian of the fund and shall administer it as directed by the board of directors. The commissioner of revenue may make prudent investments of money in the fund which the board of directors decides is not immediately needed for the purposes of this chapter. (§ 1 ch 83 SLA 1964)

year over amount...
from any special fund shall be repaid to the general fund...
fund until the loan is repaid in full. Repayments need not begin...
after the first five complete fiscal years after the fund is created.
(ch 83 SLA 1964)

Sec. 41.30.080. Transfer of funds upon discontinuance of federal program of area redevelopment assistance. If the federal program of area redevelopment assistance is discontinued for any reason, or if this chapter is repealed, the money within the area redevelopment revolving loan fund shall revert to any special fund in which money was made available, in the amount that was made available, and the remainder to the general fund. (§ 1 ch 83 SLA 1964)

Chapter 35. Alaska Historic Preservation Act.

	Section
Declaration of policy	prehistoric or archeological remains on private land
Title to historic, prehistoric and archeological resources; local display	110. Historic sites advisory committee
Designation of monuments and historic sites	120. Composition of committee
Administration and financial support of monuments and historic sites	130. Appointment of members
Regulations	140. Term of membership
Power to acquire historic, prehistoric or archeological properties	150. Compensation
Preservation of historic, prehistoric and archeological resources threatened by public construction	160. Officers
Permits	170. Meetings and quorum
Notice required of private persons	180. Duties of committee
Excavation and removal of historic, prehistoric or archeological resources	190. Powers of chairman
	200. Unlawful acts
	210. Penalties
	220. Enforcement authority
	230. Definitions
	240. Title of chapter

Statutory references. — 72 Am. Jur. 2d 47, 66.
States, Territories and Dependencies, 18 A.L.R.4th 990.
A.C.J.S., States, §§ 138, 145 — 148.

Validity and construction of statute or ordinance protecting historical landmarks, 18 A.L.R.4th 990.

Sec. 41.35.010. Declaration of policy. It is the policy of the state to preserve and protect the historic, prehistoric and archeological resources of Alaska from loss, desecration and destruction so that the scientific, historic and cultural heritage embodied in these resources may pass undiminished to future generations. To this end, the legislature finds and declares that the historic, prehistoric and archeological

Sec. 41.35.020. Title to historic, prehistoric and archeological resources; local display. (a) The state reserves to itself title to all historic, prehistoric and archeological resources situated on land owned or controlled by the state, including tideland and submerged land, and reserves to itself the exclusive right of field archeology on state-owned or controlled land. However, nothing in this chapter diminishes the cultural rights and responsibilities of persons of aboriginal descent or infringes upon their right of possession and use of those resources which may be considered of historic, prehistoric or archeological value.

(b) Although title to historic, prehistoric and archeological resources is in the state, local cultural groups may obtain from the state, or retain, for study or display, artifacts and other items of these resources from their respective cultures or areas if the committee created in AS 41.35.110 finds that (1) the group has a durable building with weatherproof and fireproof construction and humidity control and other factors necessary to serve as a museum which will assure safe preservation of the items, (2) the item sought to be obtained is not one for which there is an undue risk of damage during transportation, and (3) the item sought to be obtained or retained is not one requiring special treatment or care beyond the ability or means of the group requesting it. A group retaining such an item or obtaining one from the state shall house it in the museum building and shall make every reasonable effort to assure its safe preservation. If the committee finds that a local cultural group is not properly taking care of an item the group shall return it to the department. (§ 1 ch 130 SLA 1971)

Sec. 41.35.030. Designation of monuments and historic sites. Upon the recommendation of the committee, the governor may declare by public order any particular historic, prehistoric or archeological structure, deposit, site or other object of scientific or historic interest that is situated on land owned or controlled by the state to be a state monument or historic site and the governor may designate as a part of the monument or site as much land as is considered necessary for the proper access, care and management of the object or site to be protected. When an object or site is situated on land held in private ownership it may be declared a state monument or historic site in the same manner, with the written consent of the owner. (§ 1 ch 130 SLA 1971)

Sec. 41.35.040. Administration and financial support of monuments and historic sites. State-owned monuments, sites and other historic, prehistoric or archeological properties owned or purchased by the state are under the control of the department and the

and they are kept accessible to the general public and application for support is made in conformity with regulations adopted by the commissioner. (§ 1 ch 130 SLA 1971)

Sec. 41.35.050. Regulations. The commissioner shall adopt regulations to carry out the purposes of this chapter. (§ 1 ch 130 SLA 1971)

Sec. 41.35.060. Power to acquire historic, prehistoric or archeological properties. (a) The department, with the recommendation of the committee, may acquire real and personal properties that have statewide historic, prehistoric or archeological significance by gift, purchase, devise or bequest. The department shall preserve and administer property so acquired. The department may acquire property adjacent to the property having historic, prehistoric or archeological significance when it is determined to be necessary for the proper use and administration of the significant property.

(b) If an historic, prehistoric or archeological property which has been found by the department, upon the recommendation of the committee, to be important for state ownership is in danger of being sold or used so that its historic, prehistoric or archeological value will be destroyed or seriously impaired, or is otherwise in danger of destruction or serious impairment, the department may establish the use of the property in a manner necessary to preserve its historic, prehistoric or archeological character or value. If the owner of the property does not wish to follow the restrictions of the department, the department may acquire the property by eminent domain under AS 09.55.249 — 250.60. (§ 1 ch 130 SLA 1971)

Sec. 41.35.070. Preservation of historic, prehistoric and archeological resources threatened by public construction. (a) The department shall locate, identify and preserve in suitable records information regarding historic, prehistoric and archeological sites, locations and remains. The information shall be submitted to the heads of the executive departments of the state.

(b) Before public construction or public improvement of any nature is undertaken by the state, or by a governmental agency of the state or by a private person under contract with or licensed by the state or governmental agency of the state, the department may survey the affected area to determine if the area contains historic, prehistoric or archeological values.

(c) If the department determines that historic, prehistoric or archeological sites, locations or remains will be adversely affected by public construction or improvement, the proposed public construction or improvement may not be commenced until the department has performed the necessary investigation, recording and salvage of

(d) If in the course of performing public construction or improvements, historic, prehistoric or archeological sites, locations, remains or objects are discovered, the department shall be notified and its concurrence shall be requested in continuing the construction or improvement. Upon receipt of this notice, the department shall survey the area to determine whether the area contains historic, prehistoric or archeological data which should be preserved in the public interest. The survey shall be conducted as expeditiously as possible. If, as a result of the survey, it is determined that (1) this data exists in the area, (2) the data has exceptional historic, prehistoric or archeological significance, and should be collected and preserved in the public interest, and (3) it is feasible to collect and preserve the data, the department shall perform the necessary work to collect and preserve the data. This work shall be performed as expeditiously as possible.

(e) If the concurrence of the department, required under (b) and (c) of this section, is not obtained after 90 days from the filing of a request for its concurrence to proceed with the project, the agency or person performing the construction or improvement may apply to the governor for permission to proceed without that concurrence and the governor may take the action the governor considers best in overruling or sustaining the department.

(f) The costs of investigation, recording and salvage of the site shall be reimbursed by the agency sponsoring the construction project.

(g) Notwithstanding (a) — (f) of this section, all actions to stop any project must first be approved in writing by the commissioner. (§ 1 ch 130 SLA 1971; am § 1 ch 112 SLA 1974)

Revisor's notes. — In ch. 130, SLA 1971, subsection (g) referred to "(a) and (f)." However, the floor amendment adding

(g) read "(a) — (f)," and the text has been corrected here. (See 1971 House Journal, p. 1251).

Sec. 41.35.080. Permits. The commissioner may issue a permit for the investigation, excavation, gathering or removal from the natural state, of any historic, prehistoric or archeological resources of the state. A permit may be issued only to persons or organizations qualified to make the investigations, excavations, gatherings or removals and only if the results of these authorized activities will be made available to the general public through institutions and museums interested in disseminating knowledge on the subjects involved. If the historic, prehistoric or archeological resource involved is one which is, or is located on a site which is, sacred, holy or of religious significance to a cultural group, the consent of that cultural group must be obtained before a permit may be issued under this section. (§ 1 ch 130 SLA 1971, am § 2 ch 112 SLA 1974)

privately owned, officially designated state monument or historic site by any person, the person shall give the department three months notice of intention to construct on, alter or improve it. Before the expiration of the three-month notification period, the department shall either begin eminent domain proceedings under AS 41.35.060(b) or undertake or permit the recording and salvaging of any historic, prehistoric or archeological information considered necessary. (§ 1 ch 130 SLA 1971; am § 3 ch 112 SLA 1974)

Sec. 41.35.100. Excavation and removal of historic, prehistoric or archeological remains on private land. Before any historic, prehistoric or archeological remains are excavated or removed from private land by the department, the written approval of the owner shall first be secured. When the value of the private land is diminished by the excavation or removal, the owner of the land shall be compensated for the loss at a monetary sum mutually agreed on by the department and the owner or at a monetary sum set by the court. (§ 1 ch 130 SLA 1971; am § 4 ch 112 SLA 1974)

Sec. 41.35.110. Historic sites advisory committee. There is created in the Department of Natural Resources the Historic Sites Advisory Committee. (§ 1 ch 130 SLA 1971)

Sec. 41.35.120. Composition of committee. The committee consists of the following persons:

- 1. the director of the Alaska State Museum;
- 2. the state liaison officer appointed under 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation Act of 1966);
- 3. three persons with professionally relevant backgrounds selected from each of the following fields: history, architecture and geology; and
- 4. two persons appointed to represent indigenous ethnic groups. (§ 1 ch 130 SLA 1971; am §§ 5, 6 ch 112 SLA 1974)

Sec. 41.35.130. Appointment of members. Members of the committee are appointed by the governor and confirmed by the legislature meeting in joint session. The members of the committee shall serve at the pleasure of the governor. (§ 1 ch 130 SLA 1971)

Sec. 41.35.140. Term of membership. The term of office for a member of the committee is three years, except for those who are members by virtue of their positions with the state. They serve for as long as they remain in the position by virtue of which they are members of the committee. A member appointed to fill a vacancy serves for an unexpired term of the member succeeded. Of those members listed under AS 41.35.120(3) and (4), upon initial appointment, one shall serve for one year, two for two years, and two for three years. (§ 1 ch 130 SLA 1971)

Cross references.— For transportation boards, commissions, etc., see AS 39.20.180.

Sec. 41.35.160. Officers. At the first meeting of each year, the committee shall elect a chairman from among its members. (§ 1 ch 130 SLA 1971)

Sec. 41.35.170. Meetings and quorum. The committee shall meet at least twice a year. Additional meetings may be called by the chairman or by petition of at least five members. Five members of the committee constitutes a quorum. (§ 1 ch 130 SLA 1971)

Sec. 41.35.180. Duties of committee. The committee shall

(1) develop criteria for the evaluation of state monuments and historic sites and all real and personal property which may be considered to be of historic, prehistoric or archeological significance as would justify their acquisition and ownership by the state;

(2) cooperate with the department in formulating and administering a statewide historic sites survey under 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation Act of 1966);

(3) review those surveys and historic preservation plans that may be required, and approve properties for nomination to the National Register as provided for in 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation Act of 1966);

(4) provide necessary assistance to the governor and the legislature for achieving balanced and coordinated state policies and programs for the preservation of the state's historic, prehistoric and archeological resources;

(5) consult with local historical district commissions regarding the establishment of historical districts under AS 29.48.108 and 29.48.110 and the approval of project alterations under AS 45.98.040; recommend, if appropriate, the formulation of additional criteria for the designation of historical districts under AS 29.48.110(b); approve plans for and evaluate the suitability of specific structures for purposes of loan eligibility and continuance under the historical district revolving loan fund (AS 45.98); and consult with the Department of Commerce and Economic Development relative to the adoption of regulations for historical district loans under AS 45.98. (§ 1 ch 30 SLA 1971; am § 7 ch 112 SLA 1974; am § 4 ch 139 SLA 1977)

Sec. 41.35.190. Powers of chairman. Subject to available appropriations the chairman may, with the concurrence of a majority of the committee, employ necessary personnel and may contract for the ser-

Sec. 41.35.200. Unlawful acts. (a) A person may not appropriate, remove, injure, or destroy, without a permit from the commissioner, any historic, prehistoric or archeological resources of the state.

(b) A person may not possess, sell, buy or transport within the state, or offer to sell, buy or transport within the state, historic, prehistoric or archeological resources taken or acquired in violation of this section 41.35.200. 16 U.S.C. 433.

(c) A person may not unlawfully destroy, mutilate, deface, injure, remove or excavate a gravesite or a tomb, monument, gravestone or other structure or object at a gravesite, even though the gravesite appears to be abandoned, lost or neglected.

(d) An historic, prehistoric or archeological resource which is taken in violation of this section shall be seized by any person designated in 41.35.220 wherever found and at any time. Objects seized may be disposed of as the commissioner determines by deposit in the proper public depository. (§ 1 ch 130 SLA 1971; am § 8 ch 112 SLA 1974)

Sec. 41.35.210. Penalties. A person who violates a provision of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of \$1,000, or by imprisonment for not more than six months, or by both. (§ 1 ch 130 SLA 1971)

Sec. 41.35.220. Enforcement authority. The following persons are peace officers of the state and shall enforce this chapter:

- 1) an employee of the department authorized by the commissioner;
- 2) a peace officer in the state;
- 3) any other person authorized by the commissioner. (§ 1 ch 130 SLA 1971)

Cross references. — For definition of "peace officer," see AS 01.10.060(6).

Sec. 41.35.230. Definitions. In this chapter, unless the context otherwise requires,

- 1) "commissioner" means the commissioner of natural resources;
- 2) "committee" means the Historic Sites Advisory Committee;
- 3) "department" means the Department of Natural Resources;
- 4) "historic, prehistoric and archeological resources" includes deposits, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of people in the state as well as to the natural history of the state. (§ 1 ch 130 SLA 1971)

Chapter 37. Citizens' Advisory Commission on Federal Areas in Alaska.

Section	Section
10. Citizens' Advisory Commission on Federal Areas in Alaska	65. Expenses and per diem
20. Membership and officers	70. Staff of the commission
30. Qualifications of members	80. Duties of the commission
40. Term of members of the commission	90. Advisory groups of the commission
50. Removal of a member	100. Suit
60. No loss of compensation	110. Agency cooperation
	150. Definition

Chapter repealed effective June 30, 1988. — Section 3, ch. 81, SLA 1981, repeals this chapter, effective June 30, 1988.

Collateral references. — 72 Am. Jur. 2d, States, Territories and Dependences, §§ 16 -- 18.
81A C.J.S., States, §§ 20 -- 28.

Sec. 41.37.010. Citizens' Advisory Commission on Federal Areas in Alaska. (a) The Citizens' Advisory Commission on Federal Areas in Alaska is established.

(b) The commission is a temporary advisory agency of the executive branch of the state but is not allocated to a principal department of the executive branch. In the exercise of its responsibilities, the commission shall consider the views of the citizens of the state and officials of the state. (§ 1 ch 81 SLA 1981)

Sec. 41.37.020. Membership and officers. (a) The commission is composed of 16 members appointed in accordance with this section.

(b) The membership of the commission shall represent each judicial district in the state.

(c) The governor shall appoint eight members of the commission

(d) The speaker of the house of representatives shall appoint two members of the commission from the membership of the state house of representatives and two members who are residents of the state.

(e) The president of the senate shall appoint two members of the commission from the membership of the state senate and two members who are residents of the state.

(f) The commission shall select a presiding officer of the commission from its membership. The commission may elect other officers. (§ 1 ch 81 SLA 1981)

Sec. 41.37.030. Qualifications of members. The members of the commission appointed by the governor under AS 41.37.020(c) and members appointed under AS 41.37.020(d) and (e) who are not mem-

Sec. 41.37.040. Term of members of the commission. (a) A member of the commission appointed by the governor serves for a term of two years and until a successor is appointed and qualifies.

(b) A member of the commission appointed from the legislature serves for the member's term of office as a legislator.

(c) A public member of the commission appointed by a member of the legislature serves for two years and until a successor is appointed and qualifies. (§ 1 ch 81 SLA 1981)

Cross references. — For terms of office of governor's initial appointees, see section 41.37.040, SLA 1981.

Sec. 41.37.050. Removal of a member. (a) A member of the commission may be removed by the appointing authority for cause after notice and hearing or after missing three consecutive meetings of the commission. The presiding officer of the commission shall inform the appointing authority if a member misses three consecutive meetings.

(b) After a member of the commission misses two consecutive meetings and before the third meeting, the secretary of the commission shall notify the member in writing that failure to attend the next meeting may result in the removal of the member. The failure of the secretary of the commission to notify a member under this subsection does not prevent the appointing authority from removing a member under (a) of this section. (§ 1 ch 81 SLA 1981)

Sec. 41.37.060. No loss of compensation. A member of the commission who is a legislator or a full-time employee of the state or of a municipality of the state shall suffer no loss of compensation from the state or a municipality of the state as a result of service to the commission. (§ 1 ch 81 SLA 1981)

Revisor's notes. — As enacted, this section contained a subsection (b) which was numbered as AS 41.37.065 in 1981.

Sec. 41.37.065. Expenses and per diem. A member of the commission is entitled to travel expenses and per diem prescribed for state funds and commissions. (§ 1 ch 81 SLA 1981)

Revisor's notes. — Enacted as AS 41.37.060(b). Renumbered in 1981.

Sec. 41.37.070. Staff of the commission. The commission may employ staff and contract for services relating to matters within its

controlled substances;

(D) evasive tactics or actions used by the owner or person in control of the substance to avoid detection by law enforcement authorities;

(E) the storage, packaging, presentation, display of or reference to a controlled substance with, near, or in connection with the activity involving the imitation controlled substance.

(4) "manufacture" means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, labeling or relabeling, of an imitation controlled substance. (§ 1 ch 11 SLA 1983)

Chapter 75. General Provisions.

[Repealed, § 21, ch. 166, SLA 1978. For present provisions on classification of offenses, see AS 11.81.250; for definitions, see AS 11.81.900; for sentencing, see AS 12.55.]

Chapter 76. Miscellaneous Offenses.

Section	Section
110 Selling or giving tobacco to a minor	120. Opening or publishing contents of sealed letters
110 Interference with constitutional rights	

Sec. 11.76.100. Selling or giving tobacco to a minor. (a) A person being 19 years of age or older, commits the offense of selling or giving tobacco to a minor if the person knowingly sells, exchanges, or gives cigarettes, cigars, or tobacco to a person under 16 years of age.

(b) Selling or giving tobacco to a minor is a violation. (§ 9 ch 166 SLA 1978)

Sec. 11.76.110. Interference with constitutional rights. (a) A person commits the crime of interference with constitutional rights if

(1) the person injures, oppresses, threatens, or intimidates another person with intent to deprive that person of a right, privilege, or immunity in fact granted by the constitution or laws of this state;

(2) the person intentionally injures, oppresses, threatens, or intimidates another person because that person has exercised or enjoyed a right, privilege, or immunity in fact granted by the constitution or laws of this state; or

(3) under color of law, ordinance, or regulation of this state or a municipality or other political subdivision of this state, the person intentionally deprives another of a right, privilege, or immunity in fact granted by the constitution or laws of this state.

Title 12
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Procedure

Title 13
OFFENSES
UNLAWFUL AND ILLEGAL

(b) In a prosecution under this section, whether the injury, oppression, threat, intimidation, or deprivation concerns a right, privilege, or immunity granted by the constitution or laws of this state is a question of law.

(c) Interference with constitutional rights is a class A misdemeanor. (§ 9 ch 166 SLA 1978)

Sec. 11.76.120. Opening or publishing contents of sealed letters. A person who wilfully opens or reads, or has opened and read, a sealed letter not addressed to the person, without authority to do so by the writer or by the person to whom it is addressed, or who wilfully, without the same authority, publishes a letter or portion of it, knowing it to have been opened without the authority of the writer or addressee, upon conviction, is punishable by imprisonment in jail not less than one month nor more than one year, or by a fine of not less than \$50 nor more than \$500. This section does not extend to or include an act made punishable by a law of the federal government. (§ 65-5-115 ACLA 1949; am § 22 ch 166 SLA 1978)

Revisor's notes. — Formerly AS 11.20.660. Renumbered in 1978.

Chapter 81. General Provisions.

Article

1. General Purposes (§ 11.81.100)
2. Applicability of Criminal Statutes (§§ 11.81.200 — 11.81.220)
3. Classification of Offenses (§ 11.81.250)
4. General Principles of Justification (§§ 11.81.300 — 11.81.450)
5. General Principles of Criminal Liability (§§ 11.81.600 — 11.81.640)
6. Definitions (§ 11.81.500)

Collateral references. — 21 Am. Jur. 22 C.J.S., Criminal Law, § 29-72; 40 2d, Criminal Law, §§ 19-128; 40 Am. Jur. 2d C.J.S., Homicide, §§ 97-138. 2d, Homicide, §§ 139-182.

Article 1. General Purposes.

Section

100. General purposes

Sec. 11.81.100. General purposes. The general purposes of this title are to

(1) proscribe conduct that unjustifiably and inexcusably causes or threatens substantial harm to individual or public interests;

ptive terms set out in this intended as appropriate in most cases, without significant downward adjustment. Ct. App. Op. No. 72 (File P.2d 823 (1982), modified on rehearing, Ct. App. Op. No. 259 (File No. 5606).

tion which is necessary sent offense. — Subsection, when read in connection with § 12.55.145(a)(1) and AS 12.55.145(a)(1) makes no exception for cases where conviction relied upon for presumptive sentencing is an element of the present offense. Ct. App. Op. No. 197 (File P.2d 789 (1983)).

does not purport to deal with the applicability of subsection under this section include the use of a prior conviction to invoke presumptive sentencing under this section when that is a necessary element of the offense. Fry v. State, Ct. App. Op. No. 6810, 655 P.2d 789 (1983).

or escape in the second offense to sentence appellant as a second felony offender and to impose sentence on ground of confinement on prior offense used to prove an element, i.e., that appellant was in "a correctional or official detention." Ct. App. Op. No. 216 (File No. 5606) (1983).

must precede the plain terms of AS 12.55.185(6) (7), and must precede the next sentence which can apply. Ct. App. Op. No. 228 (File P.2d 1583).

three separate crimes were entered after all had been committed, he should be a second felony offender under this section and AS 12.55.185(6), (7). Ct. App. Op. No. 3295, P.2d 1583.

the holding in State v. Neakok, Ct. App. Op. No. 1383 (File No. 5606) (1977) only to the extent specifically required by the statute to be entered of the next offense separately considered

as prior convictions in any subsequent case.

Conviction being appealed. — A conviction with the attendant constitutional safeguards is sufficient for purposes of presumptive sentencing even though on appeal. Wright v. State, Ct. App. Op. No. 204 (File No. 6569), 656 P.2d 1226 (1983).

Where total sentence received by first offender exceeds presumptive sentence for second offender but period of actual imprisonment is substantially less, such sentence meets requirement of Austin v. State, Ct. App. Op. No. 18 (File No. 5341), 627 P.2d 657 (1981), of a substantially more favorable sentence for first offender, where, however, actual period of imprisonment equals or exceeds presumptive term for second offender, aggravating factors or extraordinary circumstances are required to justify additional time even if it is suspended. Brezenoff v. State, Ct. App. Op. No. 226 (File No. 7117), 658 P.2d 1359 (1983).

In prosecution for burglary and attempted sexual assault, where defendant had long record of misdemeanor offenses consisting of approximately 32 convictions in the last nine years, including three convictions for assault, numerous convictions for disorderly conduct, and numerous theft-related offenses, the case was an exceptional one where a first felony offender could be given a sentence in excess of presumptive sentence for second offender, but did not justify imposition of consecutive sentences totalling in excess of 10 years. Hansen v. State, Ct. App. Op. No. 218 (File No. 6965), 657 P.2d 862 (1983).

Normally a first offender should receive a more favorable sentence than the presumptive sentence for a second offender. Austin v. State, Ct. App. Op. No. 18 (File No. 5341), 627 P.2d 657 (1981).

Sentence for first-time offender in excess of presumptive sentence for second offender. — Usually a sentence for a first felony offender which is in excess of the presumptive sentence for a second felony offender must be justified either by specific aggravating factors under the criminal code, or else by aggravating factors which would qualify as extraordinary circumstances under AS 12.55.165 and would justify a repeat offender receiving an enhanced sentence by a three judge panel. Neakok v. State, Ct. App. Op. No. 163 (File No. 6418), P.2d 1583 (1982).

Imposition of a sentence for first-time

presumptive sentence for second offenders is permissible only in exceptional circumstances, which may be determined by consideration of the aggravating factors specified in AS 12.55.155 or consideration of any additional, unspecified aggravating factors that would constitute extraordinary circumstances under AS 12.55.165. Peetook v. State, Ct. App. Op. No. 178 (File No. 6630), P.2d 1583 (1982).

If a suspended portion of a sentence for a first felony offender is later imposed, thus causing the period of incarceration to exceed the presumptive sentence for a second felony offender, the first offender would be entitled to bring a sentence appeal upon the imposition of the suspended portion of the sentence. Tazruk v. State, Ct. App. Op. No. 195 (File No. 6954), P.2d 1583 (1982).

In evaluating whether a partially suspended sentence for a first felony offender is in excess of the presumptive sentence which a second felony offender would receive, the reviewing court should consider only that portion of the sentence which imposes a period of incarceration. Tazruk v. State, Ct. App. Op. No. 195 (File No. 6954), P.2d 1583 (1982).

Deviation from presumptive sentences. — In sentencing proceedings involving allegations of aggravating and mitigating circumstances, the provisions of AS 12.55.155(f) require the party seeking to establish a factor to bear a dual burden of proving to the court by clear and convincing evidence the existence of the alleged factor, and providing the court with sufficient reasons to justify a conclusion, by clear and convincing evidence, that the factor warrants deviation from the statutorily prescribed presumptive sentence. Juneby v. State, Ct. App. Op. No. 72 (File No. 5606), 641 P.2d 823 (1982), modified on other grounds and aff'd on rehearing, Ct. App. Op. No. 259 (File No. 5606), P.2d 1583 (1983).

Nature of crime charged is factor. — In order to determine the realistic impact that proof of an aggravating or mitigating circumstance should have on adjustment of a presumptive sentence in any given case, it is essential to consider not only the specific conduct constituting the aggravating or mitigating factor, but also the nature of the crime charged. Juneby v.

State, Ct. App. Op. No. 72 (File No. 5606), 641 P.2d 823 (1982), modified on other grounds and aff'd on rehearing, Ct. App. Op. No. 259 (File No. 5606), P.2d 1583 (1983).

Finding required for consecutive sentence exceeding presumptive term for single count. — An affirmative finding by the sentencing court that confinement of the defendant for the aggregate period of a consecutive sentence is necessary to protect the public is required in all cases where imposition of consecutive presumptive terms would result in an aggregate sentence that exceeds the presumptive term for a single count. Lacquement v. State, Ct. App. Op. No. 85 (File No. 5741), 644 P.2d 856 (1982). See also Friedberg v. State, Ct. App. Op. No. 258 (File No. 7015), 663 P.2d 558 (1983).

Scope of review. — See notes under heading "Review of presumptively imposed sentences," AS 12.55.120, Juneby v. State, Ct. App. Op. No. 72 (File No. 5606), 641 P.2d 823 (1982), modified on other grounds and aff'd on rehearing, Ct. App. Op. No. 5606, P.2d 1583 (1983).

Where AS 12.55.145(a)(1) prohibited consideration of prior convictions for purposes of rendering defendant a second offender or third offender under this section, and where defendant was not otherwise subject to a presumptive sentence under this section, the prior criminal acts may nevertheless be considered as constituting an "exceptional case" justifying imposition of sentence in excess of the presumptive sentence for a second offender. Koganaluk v. State, Ct. App. Op. No. 176 (File No. 6531), P.2d 1583 (1982).

Failure to prove prior convictions. — When a party has had insufficient time to comply with the notice requirements relating to proof of prior convictions or aggravating and mitigating factors, the appropriate remedy should normally be a continuance of the sentencing proceedings; and failure to consider prior crimes for presumptive sentencing purposes can be condoned only in those cases where the state, after exercising due diligence, is unable to meet the statutory requirements for proof of a prior conviction. Kelly v. State, Ct. App. Op. No. 251 (File No. 6311), P.2d 1583 (1983).

Sec. 12.55.135. Sentences of imprisonment for misdemeanors.
(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than one year

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 90 days unless otherwise specified in the provision of law defining the offense.

(c) A defendant convicted of assault in the fourth degree committed in violation of the provisions of an order issued under AS 25.35.010 or 25.35.020 shall be sentenced to a minimum term of imprisonment of 20 days.

(d) A defendant convicted of assault in the fourth degree upon a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the assault shall be sentenced to a minimum term of imprisonment of 30 days.

(e) The execution of a sentence under (c) or (d) of this section may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served. Imposition of a sentence under (c) or (d) of this section may not be suspended, except upon condition that the defendant be imprisoned for no less than the minimum term of imprisonment provided in (c) or (d) of this section, and the minimum sentence provided for in (c) or (d) of this section may not be otherwise reduced. (§ 12 ch 166 SLA 1978; am § 2 ch 139 SLA 1980, am § 22 ch 59 SLA 1982; am § 13 ch 61 S. A 1982, am § 31 ch 143 SLA 1982; am §§ 4, 5 ch 92 SLA 1983)

Revisor's notes.

Internal references in subsection (e) were revised in 1983.

Effect of amendments. — The first 1982 amendment substituted "fourth degree" for "third degree" in the first sentence of subsection (c).

The second 1982 amendment made the same change as the first 1982 amendment.

The third 1982 amendment, in subsec-

tion (c), substituted "fourth degree" for "third degree" and "20 days" for "10 days" in the first sentence and substituted "be imprisoned" for "by imprisoned" in the last sentence.

The 1983 amendment deleted the second and third sentences of subsection (c), concerning suspension of the execution or imposition of a sentence, and added subsections (d) and (e).

NOTES TO DECISIONS

Constitutionality of presumptive sentencing provisions. — See notes under same heading, AS 12.55.125, *Nell v. State*, Ct. App. Op. No. 77 (File No. 5565), 642 P.2d 1361 (1982).

Cited in *Law v. State*, Sup. Ct. Op. No. 2301 (File No. 4552), 624 P.2d 284 (1981); *Kelly v. State*, Ct. App. Op. No. 251 (File No. 6311), P.2d (1983).

Sec. 12.55.140. Sentences for violations. [Repealed, § 23 ch 59 SLA 1982.]

Sec. 12.55.145. Prior convictions. (a) For purposes of considering prior convictions in imposing sentence under AS 12.55.125(c), (d)(1),

(1) a prior conviction may not be considered if a period of 10 or more years has elapsed between the date of the defendant's unconditional discharge on the immediately preceding offense and commission of the present offense unless the prior conviction was for an unclassified or class A felony;

(2) a conviction in this or another jurisdiction of an offense having elements similar to those of a felony defined as such under Alaska law at the time the offense was committed is considered a prior felony conviction;

(3) two or more convictions arising out of a single, continuous criminal episode during which there was no substantial change in the nature of the criminal objective are considered a single conviction unless the defendant was sentenced to consecutive sentences for the crimes; offenses committed while attempting to escape or avoid detection or apprehension after the commission of another offense are not part of the same criminal episode or objective.

(b) When sentence is imposed under this chapter, prior convictions not expressly admitted by the defendant must be proved by authenticated copies of court records served on the defendant or the defendant's counsel at least 20 days before the date set for imposition of sentence.

(c) If the defendant denies the authenticity of a prior judgment of conviction, that the defendant is the person named in the judgment, that the elements of a prior offense committed in another jurisdiction are substantially identical to those of a felony defined as such under Alaska law, or that a prior conviction occurred within the period specified in (a)(1) of this section or if the defendant alleges that two or more purportedly separate prior convictions should be considered a single conviction under (a)(3) of this section, the defendant shall file with the court and serve on the prosecuting attorney notice of denial no later than 10 days before the date set for imposition of sentence. The notice of denial shall include a concise statement of the grounds relied upon and may be supported by affidavit or other documentary evidence.

(d) Matters alleged in a notice of denial shall be heard by the court sitting without a jury. If the defendant introduces substantial evidence that he is not the person named in a prior judgment of conviction, that the judgment is not authentic, that the conviction did not occur within the period specified in (a)(1) of this section, or that a conviction should not be considered a prior felony conviction under (a)(2) of this section, then the burden is on the state to prove the contrary beyond a reasonable doubt. The burden of proof that two or more convictions should be considered a single conviction under (a)(3) of this section is on the defendant by clear and convincing evidence.

(e) The authenticated judgments of courts of record of the United States, the District of Columbia, or of any state, territory, or political subdivision of the United States are prima facie evidence of conviction.

HCR

Q

Arts Alaska, Inc.

619 Warehouse Avenue • Suite 220
Anchorage, Alaska 99501 • (907)279-1558

SERVICE CONTRACT

This contract, effective as of the 23rd day of December, 1976, between Arts Alaska, Inc. (hereinafter called the "Corporation"), and Robert Murry (hereinafter called the "Artist").

WITNESSETH THAT: Whereas the Corporation is entering into this contract for professional services; and Whereas, the Corporation has the authority to enter into this contract by the approval of the Board of Directors of Arts Alaska, Inc.;

NOW THEREFORE, the parties hereto agree as follows:

Article I. The Services to be Performed.

The Artist is hereby commissioned to undertake and complete a metal sculpture for the Juneau courthouse plaza per the design to be submitted to the Alaska State Council on the Arts and reviewed by the judging panel. The work of art will be delivered and installed at the site at the expense of the Artist.

All materials used shall be selected, applied and treated in order to be reasonably protected against damage. Full instructions will be provided for the continued maintenance of the work of art.

The Artist will view the site of the planned space for the work of art at his own expense, prior to beginning the project.

The artist will be invited to participate in the unveiling ceremony. All

costs for such participation will be the responsibility of the Artist should he choose to participate.

Article II. The Period of Performance.

The period of performance under this contract shall commence on January 1, 1977, and expire on September 1, 1978. Performance may be extended for additional periods by the mutual written agreement of the parties.

Article III. Consideration.

In full consideration of the Artist's performance hereunder, the Corporation shall pay the Artist a total amount for the completed and accepted Work of Art of FORTY THOUSAND AND NO/100 DOLLARS (\$40,000), and not more.

From the above amount, the Artist shall arrange and pay, or otherwise provide for all services, supplies and equipment for services, labor, materials, travel, hotel and subsistence, transportation, storage, fees, rentals, insurances, taxes, and all other cost and expenses required to complete the Project to the satisfaction of the Corporation.

Payment on account of the Cost of the Project shall be made as follows:

\$4,000 at the signing of the contract.

\$16,000 when the proposal submitted by the Artist is approved by the selected panel.

\$16,000 when notified that the piece is fabricated and ready for shipment.

\$4,000 upon final installation and acceptance by the State of Alaska.

Article IV. Additional Contract Provisions.

Appendix A attached hereto and made a part hereof sets forth special

conditions for the project.

Appendix B attached hereto and made a part hereof sets forth additional general provisions of this contract.

Article V. Changes.

Appendix C attached hereto and made a part hereof, sets forth any changes or additions that were made in this contract prior to its execution. (If appendix C is not attached hereto, there have been no such changes or additions).

Article VI. Special and General Conditions for the Project.

All articles of the attached General Conditions for the project shall be part of this agreement as if written herein in full.

By signing, the Artist declares that he has read and is in accord with the agreement and the terms identified in the General Conditions. If countersigned, this contract shall serve as an instrument of agreement.

IN WITNESS WHEREOF, the parties have executed this contract.

ARTIST

By: Robert Murry

DATE: 18 Jan. 77

Permanent address of Artist

First floor
66 Grand St.
New York, N.Y. 10013

Social Security # 092-42-3051

ARTS ALASKA, INC.

By: R. H. Helmer

Executive Director

DATE: 12/23/76

APPENDIX A

Special Conditions for the Project

- A. The Artist will visit the project site to survey and evaluate its visual, environmental and background characteristics.
- B. After consideration of the desires, views and expectations of the selection committee a written outline description of the work-of-art as you envision it along with drawings and/or maquettes showing the intended form, shall be prepared and submitted with a site plan noting the proposed location of the sculpture.
- x C. Site preparation specifications will be provided at such time as the proposal is accepted by the committee.
- D. The Selection Committee will review the proposal and recommend acceptance and/or modifications. Upon their acceptance the project will proceed as outlined. Should agreement not be accomplished this contract can be terminated by the Board of Directors of Arts Alaska, Inc. In such event the total compensation to the Artist will be the initial payment of \$4,000.
- E. The Artist is required to meet with the Selection Committee at the time of the review of the proposal. All expenses for travel and per diem related to this meeting will be paid by the Corporation or the Alaska State Court System.
- F. The Artist will obtain and pay, or otherwise provide for the services of professional consultants to assist in the preparation and documentation of data related to stress, climatic and organic damage, and firm and secure mounting.
- G. The Artist will provide all required facilities, equipment and labor to transport and to install the sculpture. After the installation all debris shall be removed from the site and all damage to the surrounding areas shall be repaired and rendered invisible.

APPENDIX B

General Conditions for the Project

- A. In the performance of the Project, the Artist shall be obligated to observe and conform to all applicable codes, ordinances, regulations, statutes and laws. *The Corporation will provide the Artist with copies of any such restrictive codes, etc.*
- B. Portions of the Project may be sublet by the Artist at his expense, subject to prior written approval by the Corporation. Approval shall not be unreasonably withheld. All work shall be undertaken by the Artist personally or under his personal supervision.
- C. The Work on the Project shall commence immediately after signing of the agreement by all parties concerned and shall be pursued with reasonable dispatch and without interruptions, except when caused by forces beyond the Artist's control. It shall be so organized as to assure completion of the Project on or before the date stated in the agreement.
- D. All payments on account of the Project shall be subject to the receipt of a signed request for payment from the Artist, certifying that the work under this agreement is progressing as planned and in accordance with the agreement.
- E. Final payment will be made only when the completed work of art has been accepted by the Corporation with the concurrence of the Project Selection Committee.
- F. Actual payment process may take up to two weeks before transmittal of payment to the Artist.
- G. The Corporation reserves the right to suspend at any time and for any reason for any given or indefinite time the services to be rendered under this agreement upon written notice to the Artist. *The Corporation will be responsible for storage charges incurred during such delay.*
- H. The work under this agreement may be terminated by either party, subject to a written notice submitted fourteen (14) days before termination, provided that attempts to reconcile the reason for cancellation have been undertaken but have failed. Upon termination, payment on account of the Project shall be made in proportion to the work completed, ~~provided the Artist will submit to the Corporation all work performed up to the effective date of cancellation in an orderly manner, and every effort will be considered for completing the work per the original design.~~
- I. The Corporation shall not be liable for payment for any additional services, unless such services and the cost thereof have been previously approved in writing. Any term of this agreement may be amended by a written Amendment to the Agreement, signed by both parties; subject to the authorization of the Board of Directors where required.

J. All drawings, models or maquettes shall remain the Artist's property. The copyright in the Work of Art, however, belongs to the Corporation, and no more copies than are required in the Project may be made or caused to be made by anyone without prior written approval from the Corporation.

K. All aspects of the Project shall be guaranteed by the Artist against faulty execution or defective or inferior materials, equipment or workmanship for one (1) calendar year after completion and acceptance of the Project by the Corporation, during which period the Work of Art shall be repaired, restored or replaced at the Artist's expense, with the exception of the painted surface.

L. It is understood that under the terms of the Contract, the Artist is an "Independent Contractor" who shall indemnify and save harmless the Corporation and the State of Alaska from and against any and all manner of actions, liabilities, and claims of any person arising out of or in connection with the performance of the services to be performed by the Artist under this Contract. Any work under this Agreement shall not be construed as employment with the State of Alaska or Arts Alaska, Inc. The Artist will be required to obtain and pay for his gross income license and be responsible for payment of income, social security, and other taxes.

M. The artist shall not assign or transfer any interest in this Agreement without the prior written consent of the Corporation; provided, however, that claims for money due or to become due from The Corporation under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Corporation.

N. In the event that the Artist dies before the date fixed for completion or becomes permanently incapacitated and/or unable to complete the work on the Project, the Corporation may within thirty (30) days after notice thereof, elect in writing to pay a proportionate share of the agreed price for work completed to the satisfaction of the Corporation, and acquire the unfinished work. This Agreement shall then be cancelled and the Corporation be entitled to the return of such part of the price above the proportionate share, as the Artist has already been paid.

The heirs or executors will make every effort to complete the project per the original design.

O. A program of regular maintenance will be planned by the Corporation for the State of Alaska that is acceptable to the artist.

D.1.

WASHINGTON
DC 20506



A Federal Agency advised by the
National Council on the Arts

October 10, 1978

John B. Chenoweth
Legislative Counsel
Legislative Affairs Agency
Pouch Y
Juneau, Alaska

Dear Mr. Chenoweth:

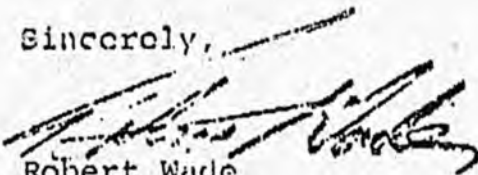
The controversy surrounding the Juneau Art in Public Places project entitled "Nimbus" has come to our attention.

As you may already be aware, there do not presently exist any restrictions or conditions in Endowment grant provisions relating to removal or relocation of commissioned works from their proposed sites. However, reference should be made to the copyright laws of the United States, which indicate that the creator of a work retains rights regarding the manner and location of public exhibition of his work. (See Title 17 . B106(5) of the United States Code Annotated.)

In any event, the proposed disposition of the piece in question is of concern to us, since the project was made possible by a Federal grant program. Any action, especially destruction of the piece, which would undermine the purposes and intent behind the Federal Art in Public Places program could not be viewed with indifference by the Endowment.

Of course, we at the Endowment are sensitive to local concerns. We therefore hope an equitable resolution of this matter can be effected, hopefully one which takes into account the rights and interests of all involved parties, including the creator of the work.

Sincerely,


Robert Wade
General Counsel

cc: Roy Helms

D.1.

WASHINGTON
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Sincerely,

Robert Wade
General Counsel

cc: Roy Helms

*I thought you might be interested in my effort in this regard.
Maybe we could try re-selling it to some Eastern gallery.*

Dear Governor Sheffield,

I was gratified to hear that you have accepted the resignations of the entire State Council for the Arts. As an individual Alaskan, I would like to make a suggestion to you which could correct two injustices, beautify Juneau and win the gratitude of the vast majority of Juneau-ites -- at no cost to the State.

As you may know, "Nimbus" -- the misshapen piece of bluish metal in our court building's plaza -- may have been the old Art Council's worst error of judgement. A big-name Eastern "sculptor" was (lavishly) commissioned, and the resulting "Nimbus" outrage filled the EMPIRE's "Letters to the Editor" section longer than anything else since. (My own letter read, "A piece of junk is a piece of junk is a") Maybe most galling was the stipulation that "Nimbus" had to be re-sold rather than simply scrapped if found to be unacceptable. There was even a petition against Nimbus -- ignored by the Arts Council, of course. Even now "a Nimbus" means a snob-appeal boondoggle.

A local resident, Ed Way, did the "Hard Rock Miners" bronze sculpture for the new *Marine Park*. It is a brilliant and moving tribute to those men whose honest sweat originally built this town. Ed is an acquaintance of mine, and his business sense has never kept pace with his artistic skill and vision. Forging the sculpture in California, Ed "went over" his original bid (by more than \$20,000!), believing Juneau-ites would support (and expecting our Borough Assembly would compensate) his commitment.

When Ed petitioned the Assembly for compensation last week, Bill Overstreet led the (unpopular) vote against it. Bill's opposition was basically out of a sense of fiscal duty, not wanting to set a dangerous precedent for other contractors.

COULD YOU, AS ALASKA'S GOVERNOR, INTERCEDE IN THIS UNFORTUNATE SITUATION AND OFFER TO SELL "NIMBUS" SO THAT THE PROCEEDS COULD BE USED TO HELP FULLY RECOMPENSE ED WAY FOR HIS/OUR "HARD ROCK MINERS"? --ASSUMING SOMEONE MIGHT BUY SUCH SCRAP, OF COURSE.

I do not know the legal status of Nimbus, but such an action could be a beautiful and appreciated gesture appropriate to the new beginning you intend for Alaska.

Thank you for your time and for your consideration of my idea.

Respectfully,

Gov. Sheffield,

I discussed this with Bill last night. He instead prefers a private fund-raising, wanting to leave government out of it. However, a private effort may not raise much "after the fact", and a good excuse to get rid of Nimbus should be used. More importantly, this situation is a bronzen opportunity to re-emphasize that Alaskan art should be.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

COPY

I. REQUEST

Bill/Resolution No. House Concurrent Resolution No. 9
 Title Veteran's Memorial in place of "Nimbus".
 Requested by House State Affairs Date 04 Jan 1983

II. FISCAL DETAIL

Agency Affected Military Affairs
 Program Category Affected Public Protection
 BRU, Program, Or Subprogram(s) Affected Life & Property Protection
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No apparent fiscal impact.

IV. DATE 04 Jan 1983 PREPARED BY *D.R.* Dick Rountree
 AGENCY Military Affairs
 Original: Legislative Finance PHONE 465-4601
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/82)

HCR

10

Introduced: 1/21/83
Referred: State Affairs,
Transportation & Finance

BY FRITZ, SZYMANSKI
AND BARNES

1 IN THE HOUSE

2 HOUSE CONCURRENT RESOLUTION NO. 10
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 Relating to access to Whittier, Alaska.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 WHEREAS there are a number of places along the railbed of the Alaska
8 Railroad that are paved for temporary use by automobiles when snowslides
9 cover the Seward Highway, making it impassable; and

10 WHEREAS a significant number of people seek access to Whittier,
11 Alaska, and access is limited to service on the Alaska Railroad; and

12 WHEREAS the railroad service to and from Whittier is inadequate or
13 inconvenient and a significant number of people would prefer to drive to
14 and from Whittier;

15 BE IT RESOLVED by the Alaska State Legislature that the Governor is
16 respectfully requested to direct the Department of Transportation and
17 Public Facilities to study the paving of the Whittier railroad tunnel for
18 vehicular traffic and to enter into negotiations with the Alaska Railroad
19 for the acquisition of right-of-way privileges to permit use of the right-
20 of-way for vehicular access to Whittier, Alaska.

Chas

*50 r/t 280 @ town
65 per request x 2
50 bid*

A very important

consideration is

the ventilation +

lighting of the one

mile-long tunnel -

DOT will

Speak to it.

please bring that

point up. Thanks

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HCR 10 Date on Bill: 1/21/83
 Title: Relating to access to Whittier, Alaska
 Sponsor: Fritz Szymanski & Barnes
 Requestor: House State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital	0	* 250.0	0	0
Operating				
Total	0	250.0	0	0

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86
	0	0	0	0

2. Source of funds to offset fiscal impact of bill:

Apr 87
1400 boats
232 plys
343 walleyes
Barrett

3. Assumptions:

Cost of Preparing the existing tunnel for:

One Way Joint Use: \$77,220,000 assuming 42 months design period and construction beginning in the summer of 1987.

Two Way Joint Use: \$135,300,000 assuming 42 months design period and construction beginning in the summer of 1987.

4. Disclaimer: (cont'd)

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: _____ Phone: _____
 Division: _____ Date: _____

Approved by Commissioner: *J. Bates* Date: 3/4/83
 Department: DOT + PF

5. Distribution:
 Original to Legislative Finance
 Copy to OMB
 Copy to Sponsor
 Copy to Requestor

Assumptions (cont'd)

a new automobile tunnel would cost approximately \$250,000. Due to the lead time needed for design of this project, and the progress in transferring the Alaska Railroad to the State, it would be more appropriate to begin negotiations at a later stage of the design process.

MEMORANDUM

State of Alaska

HCR 10

TO: Reed Gibby
Planning & Programming
Central Region

DATE: March 2, 1983

RECEIVED
MAR 9 1983

FILE NO: 2420

TELEPHONE NO: 266-1502

FROM: Donald Morfield
Design Engineer
Central Region

DM

SUBJECT: Project A82711
Legislative Request
for Whittier Access
by Tunnel

We have reviewed your request to provide a cost estimate for a feasibility study of upgrading the Whittier Railroad Tunnel(s) to accept car traffic.

This study would consider:

1. One way, joint use tunnel
2. Two way, joint use tunnel
3. New tunnel

It is expected this work would include enough geotechnical study to arrive at design parameters for whatever option was finally picked. This type of work is usually very expensive.

With the above in mind I would expect a cost range of \$200,000 - \$300,000. Since we have no experience in tunnel consultant, I feel a cost of \$250,000 is reasonable.

DM/cp

RECEIVED
DOT/PE
PLANNING & PROGRAMMING
MAR 03 1983
ANCHORAGE, ALASKA

each portal, grouting and lining to eliminate water leakage and ice buildup in winter months, and track reconstruction.

This alternative would have adequate theoretical capacity to accommodate the maximum potential demand. However, delays during peak demand periods could be excessive due to long queues waiting for opposing traffic to clear the tunnel. In addition, disabled vehicles in the tunnel could cause further delays since the tunnel width is inadequate to allow for automobiles to pass. The possibility of a vehicle fire presents safety problems, again due to the inability to clear the tunnel. There are also unresolved institutional issues in this option, particularly acceptance of risk or liability by the State or railroad.

Capital cost for this alternative, estimated at \$36.7 million, is higher than the various rail options but lower than other direct access options. The ventilation requirement is a major item in cost for this alternative. Since the existing tunnel does not have adequate height to allow installation of the required ventilation plenum, the tunnel would have to be enlarged, resulting in extensive rock excavation. Maintenance and operating costs have been estimated at \$390,000 per year. Direct access would eliminate the rail shuttle fares but the possibility of tunnel use tolls could offset these user savings.

Alternative No. 4 - Two-way Joint Use of Widened Existing Tunnel

This alternative would provide direct access to Whittier by widening the existing railroad tunnel to permit adequate highway width for two auto traffic lanes with the rail line confined to one lane. Other improvements to the tunnel would include the same features as in Alternative No. 3.

Operationally, this alternative is much simpler than the single lane tunnel but signals would still be required at each end to control traffic when a train is approaching or in the tunnel. Safety issues are also reduced but potential conflicts still exist as do the liability issues. This alternative has adequate capacity to meet the maximum demand but some potential for delays exist when train movement would close the tunnel to auto use.

Maintenance of rail facilities during the extensive tunnel expansion work would also be difficult. Capital costs for this alternative have been estimated at \$64.3 million with annual operating and maintenance costs of \$440,000.

Alternative No. 5 - New Two-way Highway Tunnel

In this alternative, a new two-lane highway tunnel would be constructed just south of the existing rail tunnel. The new tunnel would be approximately two and one-half miles long, provide lighting, ventilation and emergency phones. As with all highway options, the roadway into Bear Valley would be required but the rail terminal facilities would not be constructed.

Operationally, this alternative presents no rail/auto conflicts and would function simply as a highway. This alternative would provide the highest level of service and reliability of all options considered, would meet maximum demand, and also eliminate the institutional problems associated with joint tunnel use. It would also be the most expensive with capital cost estimated at \$68.3 million and \$440,000 annual operating and maintenance cost.

Alternative No. 6 - Portage Pass Highway

This alternative would provide a two-lane highway from the existing Portage Glacier Visitor's Center into Bear Valley and along the face of Maynard Mountain passing the end of Portage Glacier and over Portage Pass. Several locations in the section on Maynard Mountain may require either snow sheds or a short tunnel to reduce probable avalanche problems in areas of major snow chutes.

From an operational standpoint, this option would function much as other mountain highways and would have adequate capacity to meet maximum demand volumes. However, heavy winter snows, icing conditions and avalanche dangers would present severe road hazards in the winter months and high winds through Portage Pass would be a year round problem, particularly for campers and trailers. There are also steep grades (up to 9%) required between Portage Pass and Whittier which make the roadway more hazardous, particularly in winter months.

~~The Portage Pass Highway, Alternative No. 6, has all of the impacts associated with the other direct access options plus a much greater environmental consequence because of the cut along Maynard Mountain and the road through the Pass. While this route would offer excellent vistas of the glacier, it would also be visible from the visitor's center and would detract from that visually aesthetic experience.~~

~~Table S-4 presents a comparison matrix summarizing the various features of each alternative.~~

Cost Effectiveness

In addition to the evaluation factors summarized in Table S-4, an assessment of the relative cost effectiveness of each alternative was accomplished. This analysis was based on the assumption that the maximum demand levels would be reached at some point in time. Capital costs were annualized at various discount rates and then added to annual operating cost. Total annual costs were then divided by annual person trips to determine a cost per trip. Annual person trips were determined on the basis of maximum demand for the direct access alternatives and at system capacity for the rail systems. Table S-5 shows the result of this analysis.

It should be noted that this analysis tends to favor the direct access alternatives since they reflect accommodation of the number of trips under the maximum demand projections while the rail options reflect only the system capacity described in the report. However, as noted in the report, it would be possible to meet person trip demand by adding more passenger cars to the rail options even though auto access would still be limited and therefore user convenience would be lower. If maximum demand were met by the rail systems, direct cost per trip would be substantially lower than for the auto access options. Similarly, the rail options are lower in direct cost at any comparable demand level. This is particularly important since volumes lower than the maximum would undoubtedly prevail for at least a number of years.

Revenue estimates were also made for the rail systems to provide a comparison of potential net public costs since that could bear

TABLE S-4
COMPARISON MATRIX

	ALTERNATIVE							
	NULL	1	1-A	2	3	4	5	6
	No Change	Improved Auto/ Passenger Shuttle	Improved Portage Whittier Shuttle	Improved Rail Passenger Service	One-way Joint Use of Existing Tunnel	Widened Existing Tunnel, Two-way Joint Use	New Vehicle Tunnel	Portage Pass Highway
Use Existing Tunnel	X	X	X	X	X			
Enlarge Existing Tunnel						X		
Use Highway Tunnel							X	
Use Surface Highway								X
Clear Valley Road		X		X	X	X	X	X
Clear Valley Parking & Facilities		X		X	X			
Tourism/Recreation	None	Low	Low	Low to Medium	Medium	Medium to high	High	High
Employment opportunities	None	Low	Low	Medium	Low	Medium	High	High
Whittier Area Development	None	Low	Low	Medium	Low	Medium	High	High
Environmental Impact	None	Low	Very Low	Low	Low	Medium	Medium	High
Service Level/Capacity	Low	Medium	Medium	Medium	Medium	High	Very High	Very High
Summer Reliability	High	High	High	High	Medium	High	Very High	Very High
Winter Reliability	Medium	High	High	High	Low	High	High	Very Low
Summer Availability	Medium	High	High	High	Medium	High	High	High
Winter Availability	Very Low	Medium	Medium	Medium	Medium	High	High	Very Low
Convenience/Comfort	Very Low	Medium	Medium	Medium	Medium	High	Very High	Very High
Safety	High	High	High	High	Medium	Medium	High	Medium
Probability of Funding	N/A	Medium	Medium	Medium	Medium	Low	Low	Low
Construction/Implementation Time	N/A	Short	Very Short	Short	Medium	Long	Long	Long
Annual Maintenance & Operating Costs (thousands)	N/A	\$559 Initial \$1041 Exp.	\$504 Initial \$546 Exp.	\$793 Init. \$1500 Exp.	\$390	\$440	\$440	\$270
Construction/Capital Cost (millions)	N/A	\$20.0 Init. \$24.2 Exp.	\$8.8	\$21.9 Init. \$26.0 Exp.	\$36.7	\$64.3	\$68.3	\$47.8

TABLE S-5
ESTIMATED COST EFFECTIVENESS

	Alt. 1		Alt. 1-A		Alt. 2		Alt. 3		Alt. 4		Alt. 5		Alt. 6	
	10%	15%	10%	15%	10%	15%	10%	15%	10%	15%	10%	15%	10%	15%
Assumed Discount Rates														
Annual Cap. Cost (\$1000)	2,055	3,030	909	1,203	2,273	3,326	3,706	5,509	6,496	9,862	6,894	10,254	4,875	7,197
Annual O/M Cost (\$1000)	559	559	504	504	793	793	390	390	440	440	440	440	270	270
TOTAL (\$1000)	2,614	3,589	1,413	1,707	3,066	4,119	4,096	5,899	6,936	10,302	7,334	10,794	5,145	7,467
Cap or Demand (1000)	756	756	432	432	576	576	2,727	2,727	2,727	2,727	2,727	2,727	2,727	2,727
Cost Per Trip	\$3.46	\$4.75	\$3.27	\$3.95	\$5.32	\$7.15	\$1.50	\$2.16	\$0.54	\$3.78	\$2.69	\$3.96	\$1.89	\$2.74
Revenue/Trip ¹	\$3.96	\$3.96	\$3.96	\$3.96	\$3.96	\$3.96								
Net Cost/Trip	+\$0.50	\$0.79	+\$0.69	+\$0.01	\$1.36	\$3.19	\$1.50	\$2.16	\$2.54	\$3.78	\$2.69	\$3.96	\$1.89	\$2.74

¹ Revenue per trip based on passenger only revenue as generated in 1979.

on financing feasibility. Revenue per person trip was estimated based on average per passenger (excluding vehicle revenue) during 1979. As shown in the table, when potential revenue is applied, the public cost would be completely covered for both Alternatives 1 and 1-A while being reduced significantly for Alternative No. 2. It would be possible to impose tolls in the direct access options as well and thereby reduce the public costs. However, that would eliminate one of the most significant benefits of those systems.

Summary of Funding Opportunities

The last step in evaluating the various options was to look at potential funding sources. While funding sources and mechanisms are obviously a policy issue, it was considered appropriate to look at possible existing sources, both Federal and State.

At the Federal level, the most likely sources were considered to be the Urban Mass Transit Administration (UMTA), Federal Highways (FHWA) and Federal Railway Administration (FRA). Of these, the UMTA funds were considered highly unlikely since most are applicable to communities over 50,000 population. That would mean funding would have to come through the Municipality of Anchorage where other transit programs are also under consideration. The UMTA Section 18 funds for rural area transit are relatively small and would be inadequate to cover this program.

FHWA funds are allocated to the State in a formula basis. Funds for the direct access options, particularly the new tunnel and Portage Pass Highway would undoubtedly come from the Federal-Aid Primary (FAP) monies. While the allocation of those funds is a policy issue, it did not appear proper to count on such funds for a project of this magnitude given the other highway programs with possible higher immediate demand levels.

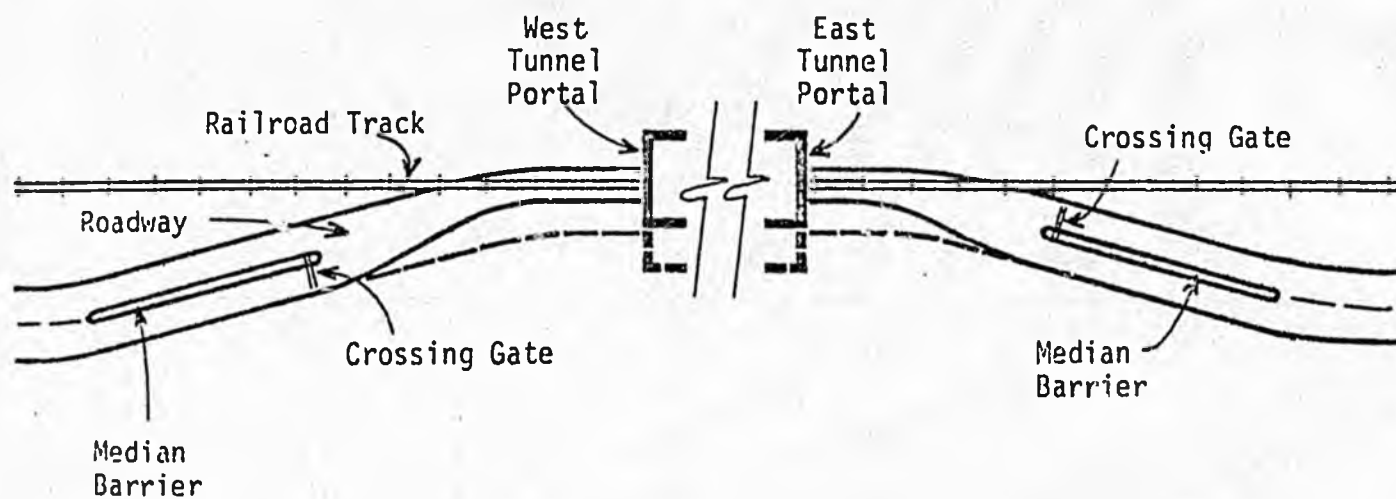
At the state level, a current support program is operational on the Whittier shuttle as part of the Marine Highway System. In addition, HR 11737 permits the State to divert up to 5% of its annual FAP funding for capital improvement and operating

~~At the Whittier end, the container could be used as a secured storage locker or placed on chassis to transport the shipped material to the final destination. The method of handling would depend upon the size and weight of the container or containers and the distance to be moved.~~

Alternative No. 3 - One-way Joint Use of Existing Tunnel

Operationally, this alternative is relatively simple from the user's standpoint. However, actual operation becomes quite complex because of the absolute measures which must be incorporated to prevent opposing traffic from entering the tunnel and to ensure priority for freight train operation. This control may range from manual operation of crossing gates to traffic actuated detectors to detect directional demands and a clear tunnel. In either event, the actual control could be similar and one method is shown in Exhibit M. In this approach, a crossing gate would be installed on the right hand roadway to stop traffic prior to entering the one-way segment leading to the tunnel portal. These gates would be lowered at alternating ends and remain lowered until the opposing traffic had cleared the tunnel.

Traffic would be channelized for some distance ahead of the gate by a median barrier to insure against by-passing the gate prior to a clear tunnel signal. During periods of high traffic volume, the system could operate with fixed cycle lengths allowing traffic in alternating directions for set periods



TRAFFIC CONTROL SYSTEM
JOINT TUNNEL USE ALTERNATIVES No. 3 & No. 4

EXHIBIT M

depending on the balance of directional volume. In low traffic periods, the system could be operated on demand and rest on the closed or stop position.

Because of the length of the tunnel, two full time "gate keepers" would be required together with a method of monitoring the tunnel. Closed circuit television monitoring could be used to insure a clear tunnel prior to opening the gate to opposing traffic and to spot any disabled vehicle in the tunnel. An alternative to closed circuit television could be directional loop detectors at each end of the tunnel with an accumulator in the signal controller which would "count" entering traffic and prevent opening the opposing gate until the same number had been counted out.

Emergency phones would have to be installed at intervals of about 1/4 to 1/2 mile in the tunnel to be used in the event of breakdowns in the tunnel. The signal system would also have to be interconnected with the rail system so that presence of a train in either direction would over-ride the signals and close both gates. Any failure of the control gates or detection of a vehicle in the tunnel would cause a red track signal, stopping the train until it could be determined that the track was clear.

Tow vehicles would be stationed at each end of the tunnel in the event of a breakdown and would be operated by the "gate keepers". Access from either end is necessary to insure that the tow vehicle can reach any disabled vehicle. In addition,

special fire protection equipment would be required at each end in the event of a vehicle fire in the tunnel. Fire fighting in this alternative presents a very difficult and potentially hazardous condition because of the restricted access for emergency equipment and the probability of toxic fumes from burning plastics and other materials.

The possibility of fires presents a serious problem in any tunnel, but in this single lane alternative, it would be particularly serious because any following vehicles would be trapped in the tunnel. The high probability of trailered vehicles would even preclude reversing the traffic in this confined space.

Fire is also a major consideration in the design of the ventilation system in addition to removal of carbon monoxide and other air pollutants. In this case, the overall height of the existing tunnel is inadequate to install the necessary plenum for ventilation and still provide adequate clearance for rail traffic. Therefore, considerable rock removal at the top of the tunnel would be necessary to create an adequate plenum space. Without adequate ventilation, the possibility would exist that carbon monoxide levels could build up to the point where the tunnel would require closure to all traffic, including rail, until the pollutants had dissipated.

Alternative No. 4 - Widened Existing Tunnel, Two-way Joint Use

In this alternative, the existing tunnel would be widened to permit two traffic lanes. The rail line would be placed in one traffic lane for joint use of the tunnel. Operationally, this alternative is much simpler than the one-way tunnel since the only traffic control requirements would be to stop motor vehicle traffic to permit passage of rail traffic.

In concept, the traffic control layout would be similar to that for the one-way alternative in that rail crossing gates would be required on each roadway ahead of the portal. Train detection would also be necessary to lower the crossing gates in advance so that adequate time is available to clear the tunnel before the train arrives. A tunnel monitoring system would also be necessary to insure a clear tunnel prior to train entry.

Monitoring could be by closed circuit television or a series of loop detectors in the roadways to detect the presence of any vehicle. Television monitoring will require surveillance, at least when a train is scheduled, so that a red track signal could be initiated in the event of a vehicle in the tunnel; loop detectors could be tied directly to the train signal system.

In this alternative, emergency vehicles such as fire trucks and tow equipment would not have to be continuously stationed at the tunnel portals since a stalled vehicle will not completely

block the tunnel. However, emergency vehicles would be necessary in Whittier or Bear Valley to respond to any emergency situation in the tunnel.

Alternative No. 5 - Vehicle Tunnel and Alternative No. 6 -
Portage Pass Highway

In these alternatives, standard highway operations are all that is required since there are no physical conflicts between train and auto traffic. Emergency procedures in the tunnel would be similar to Alternative No. 4 in that emergency phones would be necessary together with the availability of emergency equipment, probably in Whittier.

With respect to the Portage Pass Highway, standard traffic advisories dealing with climatic conditions such as high winds, snow or avalanche danger would be necessary. Wind advisories could be extremely important since campers, boat trailers, etc. are likely to make up a significant percentage of the daily traffic. During winter months, snow removal would be a major operational problem.

B. Capacity

In Phase II, a potential peak day demand volume was estimated based on potential holding capacity in the Whittier area. It was also stated that demand was unconstrained by access limitations and that no market analysis had been done to confirm or

~~... this system can readily approach the total potential demand volume in terms of total person trips if and when the potential development in Whittier is reached. However, as in Alternative 1, vehicle capacity in the shuttle is limited and would require that Whittier residents and ferry demands be given priority treatment.~~

Capacity

Alternate No. 3. - One-Way Joint Use Existing Tunnel

This alternative relies solely on highway access. Shuttle operations would be discontinued. In that circumstance, the only capacity limit is the ability of the single lane tunnel to pass traffic in alternating directions plus any reductions due to rail freight operations. Under present conditions, rail freight volume is so light that it could be essentially disregarded. However, it is possible that rail traffic could increase at some point in the future to an extent that would adversely impact vehicle capacity. That possibility, given the present demand projections defined in Phase II, presents a degree of uncertainty and any attempt to quantify it would be conjecture at best. Therefore, for this analysis it will be disregarded.

In defining the capacity of the single lane tunnel some assumptions are necessary. Firstly, daily volume will be assumed 50% in each direction over the course of a day. In this case, it will be assumed that the direction merely reverses from morning to evening periods and capacity will be defined on a daily basis.

Secondly, even with a 50% split, considerable delay time will be experienced waiting for the last vehicle through one set of gates to clear the 2.5 mile tunnel. For estimating purposes, a uniform speed of 25 mph will be assumed for determining the clearance time.

Lastly, it will be assumed that the dispersion of traffic in Whittier will be such as to not cause a backup in the eastbound direction. Given the confined space in the Whittier area and the probable congestion levels if and when full development occurs, and the only access is via highway, this assumption may be optimistic.

In order to estimate a capacity for the tunnel operation, it is first necessary to determine the average daily volume at some level of service for a two-lane roadway. The peak hour volume of a two-lane highway at level service D (volume approaching unstable flow or capacity) is 1,800 vehicles per hour. Similarly, at the 30th highest hour, which is a normal design value for the rural highways, peak hour traffic represents about 15% of ADT. Therefore, translating these values to an average daily capacity at level service D produces capacity of about 12,000 vehicles per day, or 6,000 per lane. This assumes that each lane is available 100% of the time.

In terms of the one-way tunnel, this condition is not available since time must be shared by direction plus clearance.

clearance time, assuming a 25 mph average speed over the 2.5 mile length would require 6 minutes for each change of direction. Assuming two cycles per hour to allow equal time to each direction will result in 24 minutes total clearance time, or 40% of each hour, leaving 60% for travel or 30% in each direction. With one cycle per hour, clearance time is reduced to 12 minutes, or 20%, leaving 40% available in each direction. Thus with two cycles per hour, the practical capacity of the tunnel would be about 30% of 6,000 or about 1,800 cars per day each way. This would produce a wait time for the first vehicle in the queue of 15 minutes, assuming that vehicle was stopped by the change in direction.

With one cycle per hour, practical daily capacity would reach 2,400 vehicles but the waiting time for the first vehicle in line would be 30 minutes.

Thus, this alternative could meet the potential vehicular demand at full development if the operation averaged one cycle per hour. However, at these levels, there is likely to be a constant queue at each end of the tunnel even assuming random arrivals. Delays during peak demand periods are likely to be in excess of the one cycle (30 minutes) wait. Even at much lower daily volumes, queues are likely to develop during peak demand periods.

In addition, if a vehicle failure occurs, traffic backup in both directions even at low volumes is almost certain; and resulting delays could be excessive before normal operations are resumed.

Alternative No. 4 - Widened Existing Tunnel and Alternative No. 5 - New Highway - Tunnel

These alternatives can be expected to operate essentially as two-lane highways with average daily traffic capacities in the 12,000 vehicle range. Under these conditions, either could easily meet the potential demand for vehicle access. Even though occasional delays could occur due to train/vehicle conflicts in Alternative No. 5, adequate capacity should still exist unless freight volume grows tremendously.

Alternative No. 6 - Portage Pass Highway

During peak demand summer months, this alternative would have adequate capacity to easily meet the potential vehicular demand. Some delays should be expected due to high winds through the pass; and under extreme conditions, some periods of total closure could occur.

During winter months, however, closure due to snowfall, drifting snow and avalanches should be expected quite frequently. However, during this time, demand will be substantially lower;

and with the exception of emergencies, travel could be postponed for some days. Under certain conditions, such as a major avalanche, the possibility exists that long road closures would result. Assuming that local support services such as shopping, routine medical needs and the like would develop along with general community development, even long closures might be tolerable.

Table VI provides a comparison of the projected system capacities for each alternative with the current (1979) and potential future demands. As indicated, any of the alternatives provide substantial growth capacity compared to current observed demand.

C. Service and Convenience

In general, the highest level of convenient transportation in modern America is represented by the private automobile. The auto represents freedom of movement without being tied to a schedule, can carry passengers and incidental baggage, and can go essentially door to door. Under those conditions, it would seem clear that any alternative offering unrestricted use of private transportation should rank high. However, factors such as congestion, traffic delays, parking problems, and lately, gasoline shortages tend to reduce the convenience of the private auto.

TABLE VI

SYSTEM CAPACITY VS. CURRENT AND POTENTIAL DEMAND
(TWO-WAY PERSON TRIPS)

ALTERNATIVE	CURRENT VOLUME ¹	POTENTIAL DEMAND ²	SYSTEM CAPACITY INITIAL	SYSTEM CAPACITY EXPANDED
1. WHIT./B.V. Shuttle	Summer ³ 673 Winter ⁴ 64	17,140	3360 ⁵	6240 ⁵
1-A. WHIT./PORT. Shuttle			1920 ⁵	2880 ⁵
2. Improved Rail			2560 ⁵	4800 ⁵
3. Single Lane Joint Use			9600 ⁶ Potential Demand	9600 ⁶ Potential Demand
4. Enlarged Tunnel Joint Use			Exceeds ⁷ Potential Demand	Exceeds ⁷ Potential Demand
5. Highway Tunnel			Exceeds Potential Demand	Exceeds Potential Demand

- ¹ Based on calendar 1979 demand - includes vehicle driver.
- ² Reflects unconstrained average peak day demand at full development of Whittier and south side of passage canal (see Table II).
- ³ Average daily in peak month.
- ⁴ Seven month daily average (excludes May through Sept.).
- ⁵ Capacity based on 80% load factor at summer schedule and train consist described and shown in diagrams - passenger trip capacity on Alternatives 1 & 2 can be expanded to meet potential demand by adding passenger coaches to trains - vehicle capacity is limited by schedule (see text).
- ⁶ Assumes average of 2 persons/vehicle - see text for capacity discussion.
- ⁷ Two-lane highway capacity is about 12,000 veh./day - potential.

All of these factors are more or less present in the Whittier situation and also vary according to residence location and trip purpose. For a Whittier resident going into Anchorage to shop, visit friends, conduct business, etc. an auto becomes quite important.

However, for a non-resident visiting Whittier to use his boat or condominium, go fishing or hiking, or just to sightsee, an auto is much less important because the area is generally of walking scale, providing that a convenient means is available to transport baggage and equipment. In addition, unrestricted auto access to Whittier, if much development actually occurs, would produce extreme traffic congestion and parking problems which by themselves would reduce the convenience and also the desirability of the area as a recreation area.

All of these factors and conditions should be kept in mind when considering service and convenience of the various alternatives. There is no doubt that the existing system is inconvenient and does not provide a high level of service, particularly for Whittier residents who cannot leave and return the same day. All alternatives solve that problem and improve service frequencies. Other factors will be described for each alternative.

would occur prior to arrival of the shuttle train for the return trip.

Improved methods to transport gear and baggage could possibly be provided through use of wheeled lockers (much like a hand cart) which could be loaded onto the train and then wheeled to dock or condominium. Such improvements would make non-auto use by non-residents much more convenient than at present.

Also for Whittier residents, both permanent and seasonal, these alternatives will tend to reduce the number of vehicles in Whittier and therefore minimize traffic and parking problems in the confined area available.

Alternative No. 3 - One-way Joint Use Existing Tunnel

This alternative, while appearing to offer the advantages inherent in the use of private vehicles, actually has a high level of inconvenience built into it. As described in the preceding operations and capacity discussions, long delays would occur under all but the lightest volume conditions.

At the present level of use, particularly in winter months, these delays would undoubtedly be tolerable. However, as development and growth in Whittier occurs, this delay at either end would rapidly increase. In summer months even at present levels of use where some 600 persons and over 100 vehicles use the shuttle on an average day in the peak months, delays could

be expected during peak demand periods. At future development levels, a continuous queue of cars, campers, and buses should be expected and delays would be long.

In addition, this alternative produces the lowest safety potential of all alternatives. As described in the operations discussion, an accident or vehicle fire in the tunnel could be disastrous given the severe access limitations for emergency vehicles.

Alternatives No. 4 and No. 5 - Widened Existing Tunnel - Two-way Joint Use, and New Two-way Highway Tunnel

These alternatives are approximately equal in terms of convenience and service in that they both offer essentially unrestricted access for private vehicles. There are small differences in 4 and 5 because of the possibility of delays associated with the rail freight operations. However, at present levels of rail freight service, this should not be a serious consideration. In the event of a major increase in rail traffic, such as might occur if Whittier were to become a major depot for bulk cargo such as coal, the joint tunnel would be seriously impacted. If that should occur, the single lane (Alternative No. 3) would become unworkable.

These highway alternatives, while offering essentially unrestricted access, can be expected to produce the greatest development pressures in Whittier. Therefore, they will also

produce the highest level of traffic congestion and parking problems in Whittier because there would be no real alternative to use of the private vehicle to travel into and out of Whittier for residents and visitors alike.

Alternative No. 6 - Portage Pass Highway

This alternative, while offering vehicle access, has some significant delay problems, particularly during winter months. In addition, this alternative presents some dangerous conditions due to the potential for high winds and the steep grades (up to 9%) necessary to drop into Whittier from the pass. These grades, coupled with sharp curves required by the topography would produce dangerous driving conditions, particularly during winter months.

In addition, this alternative shares the problems inherent in unlimited vehicle access to Whittier that would produce traffic and parking problems.

Overall, from a convenience and service standpoint and discounting the internal traffic and parking problems, Alternative No. 5 provides the highest levels of improvement, closely followed by No. 4. Alternatives 1 and 2 would rank next at about equal levels and Alternatives 3 and 6 would rank last due to excessive delays and potential winter closure.

D. Operating Costs.

Comparison of these alternatives on the basis of operating cost poses some inconsistencies. In the rail shuttle and passenger alternatives, operating and maintenance costs are borne by an agency that must recover those costs in some manner, usually through fares and subsidy. In the highway alternatives, the major operation costs, i.e. vehicle operation, are borne by the private individual while facility maintenance is paid by the State. Thus the perception of operation and maintenance costs is different for the different modes.

Even though full operating and maintenance costs for an automobile are now in excess of 30 cents per mile, the average motorist perceives only his "out-of-pocket" costs for gas, oil, and parking. Public systems such as rail and bus systems, on the other hand, identify all costs. Therefore to be directly comparable, total vehicle miles by all modes under each alternative should be identified and costed out.

However, vehicle miles traveled by private vehicles are difficult to determine without full synthesis of the total system alternatives which was well beyond the scope of this study. Therefore, for the purposes of this comparison, all costs are identified for the rail systems since they will require funding from some source. For the highway systems, only the operating and maintenance costs associated with the facility itself, the public costs, are identified. However, this "incomparability"

of the operating and maintenance costs should be kept in mind when considering the alternatives.

Alternate No. 1. - Improved Auto/Passenger Shuttle

Two conditions are developed for this alternative: an initial cost and a cost for the future high level or expanded service day. All unit costs for labor, fuel, etc. are based on current conditions for the Alaska Railroad operations. Crew costs for the rail operations are based on current wage rates and operating agreements which set a standard day. For those operations based in Whittier, a premium of 20% has been applied. In addition, a four person crew has been assumed rather than the current five even though this will require changes in current work rules. It also assumes that the rail operation would continue under the Federal ownership and therefore be exempt from State minimum crew laws. Where one crew operates more than a standard day either in miles or hours worked, overtime (or mileage) rates were used. In estimating these operating costs, only direct operating and maintenance costs (including an allowance for track maintenance) are included. No depreciation or capital recovery factor has been applied. All costs are 1980 dollars.

Table VII shows the estimated operating and maintenance costs by component for the service schedules shown in Exhibit G and H in Section A of this Chapter.

Alternatives No. 3, 4, 5, & 6 (Highway Alternatives)

Table X summarizes maintenance costs for the highway (direct access) alternatives. As can be noted the first three Alternatives, 3, 4, & 5, have higher costs than Alternative No. 6, with the major difference being attributable to tunnel maintenance. The short tunnel included in the Alternative No. 6 scheme is not programmed to have lighting, ventilation, or attendants; and therefore, does not require the typically high tunnel maintenance cost of the other three. However, snow removal costs in Alternative No. 6 are expected to be a major item and, therefore, costs for this alternative have been based on experience on Thompson Pass where snow conditions are similar.

E. Capital Costs

The approach used in the development and preparation of the capital cost estimates was based on current state of the art methods and procedures, directed toward establishing realistic costs for the various alternatives. Initially, estimates were prepared using data from similar projects in remote mountain locations. These data were then adjusted to accommodate the uniqueness of the project area based on input from key estimators/engineers from both Alaska DOT/PF and the Alaska Railroad.

TABLE X

ESTIMATED MAINTENANCE COSTS
ALTERNATIVES 3, 4, 5, & 6

ITEM	ANNUAL COST			
	ALT. #3	ALT. #4	ALT #5	ALT #6
Tunnel Maint.				
Gen'l. Maint. & Power	\$200,000	\$250,000	\$250,000	----
Attendants Salaries	150,000	150,000	150,000	----
Highway				
Portage Glacier Road	25,000	25,000	25,000	\$25,000
Bear Valley Road	10,000	10,000	10,000	----
West Camp-Whittier Road	5,000	5,000	5,000	5,000
Portage Pass Road	----	----	----	240,000
Total	\$390,000	\$440,000	\$440,000	\$270,000

even though considerable effort was put forth in developing the capital costs, it should be emphasized here that given the tight time constraints of this project coupled with the lack of detailed mapping and other data, the estimates should be considered as order-of-magnitude in nature.

Alternative Nos. 1, 1-A & 2

Capital costs for these two alternatives are comprised of two major components, construction costs and equipment costs. The various elements making up the construction costs are the rail/shuttle facilities ie., rail sidings, loading ramps, parking lot, vehicle staging area, depot (sheltered platform), etc. Also included are the Bear Valley Access road in Alternatives 1 & 2, and improvements to the tunnel which entails grouting to eliminate water problems, rock excavation to remove tight spots, rock bolts plus shotcrete lining at strategic locations to arrest the rock spalling problem and replacement of the road bed with new rail, ties and ballast. Alternative 1-A has less extensive rail modifications and does not include the Bear Valley Road. Both alternatives 1 & 2 require all of the above listed facilities and therefore have the same construction costs.

Equipment requirements vary, however, as to the resulting costs. The equipment cost component is broken down into four elements based on equipment needs for both initial and expanded levels of service for each alternative. These elements and the

equipment required are: 1) Alternative No. 1 Initial Operation; two new passenger coaches. 2) Alternative No. 1 Expanded Operations; to the initial operation equipment, add two new train sets, each comprised of two passenger coaches and fourteen flat cars. 3) Alternative No. 2 Initial Operation; two new SPV 2000 passenger vehicles plus an allowance for spare parts. 4) Alternative No. 2 Expanded Operation; add two new train sets to the initial equipment. These are the same as the train sets listed above for Alternative No. 1 Expanded Operations. Alternative No. 1-A assumes only replacement of the existing passenger coaches with more modern and comfortable equipment. With respect to capital cost, the initial and expanded service levels in this alternative are equal. Table XI following with a summary of the capital costs for Alternative Nos. 1, 1-A and 2 for both the initial and expanded operations.

Alternative Nos. 3, 4, 5, & 6

Capital costs for these four alternatives are made up of the following six major cost elements: Earthwork, Road construction, Bridge construction, Tunnel construction, Camp operations and Mobilization. Also included are Engineering/Administration and Contingency costs.

The first three cost elements, earthwork, road, and bridge construction, are the same for Alternative Nos. 3, 4, and 5 since these elements relate only to the access road for these three alternatives. The other major cost element, tunnel construction, varies considerably between the three with the greatest difference being between Alternative No. 3 and either Alternative Nos. 4 or 5 which have the highest tunnel costs. Alternative No. 6 on the other hand, has the lowest tunnel costs and the highest costs for earthwork, road and bridge construction. Capital costs are summarized in Table No. XII.

~~F. Fares and Revenues~~

~~Estimating system revenue again requires a number of assumptions. First of all, there is no real solid basis for estimating real demand on the rail alternatives since the growth in Whittier; and general travel is based only on a holding capacity basis. It is reasonable to assume, however, that the significant increases in service levels will attract increased patronage.~~

~~Based on the telephone interviews conducted in Phase II, a significant number of Anchorage residents will increase the frequency of visits to Whittier. Also, Whittier residents indicated a large potential increase in travel with improved access. In addition, the marina is being expanded by some 200 slips which will in itself contribute added travel demand in the initial periods.~~

TABLE XII

ESTIMATED CAPITAL COST SUMMARY
ALTERNATIVES No. 3, 4, 5 & 6

COST ELEMENT	ALT. No. 3	ALT. No. 4	ALT. No. 5	ALT. No. 6
Earthwork	\$ 2,351,000	\$ 2,351,000	\$2,351,000	\$21,770,000
Road Construction	833,000	833,000	833,000	2,750,000
Bridge Construction	2,057,000	2,057,000	2,057,000	3,287,000
Tunnel Construction	20,000,000	39,496,000	42,199,000	4,713,000
Camp Oper/Maint	1,643,000	1,916,000	2,190,000	2,190,000
Mobilization	<u>850,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>1,500,000</u>
Sub-total	\$27,734,000	\$48,653,000	\$51,630,000	\$36,210,000
Engr/Admin + 15%	<u>4,160,000</u>	<u>7,298,000</u>	<u>7,745,000</u>	<u>5,431,000</u>
Sub-total	\$31,894,000	\$55,951,000	\$59,375,000	41,641,000
Contingency + 15%	<u>4,784,000</u>	<u>8,393,000</u>	<u>8,906,000</u>	<u>6,246,000</u>
TOTAL	<u>\$36,678,000</u>	<u>\$64,344,000</u>	<u>\$68,281,000</u>	<u>\$47,887,000</u>

However, unless some joint fare policy were implemented such that the bus-shuttle transfer could be made on the basis of the Anchorage-Bear Valley bus ticket or vice-versa, the net cost for the complete trip would not be significantly different.

Ideally, such a joint fare should be initiated to encourage use of the public system for the entire trip. If that were done, a round trip bus/shuttle fare in the range of \$7.50 to \$8.00 might be appropriate. A round trip fare in Alternative No. 1 in that range would reduce total revenue for that system by about \$100,000 per year. Even with that reduction, however, it would appear that a break-even condition could be realized with the other assumptions made.

G. Cost Effectiveness

One of the most effective measures used to compare alternatives is cost effectiveness which defines the cost per unit of usage. For example, total cost per person trip. This requires determining total annual cost for both operating and capital cost. While operating costs have been calculated on an annual basis, the capital cost has been presented as a total cost in-place for all facilities. To convert these costs to an annual equivalent cost, an amortization or capital recovery factor has been applied over the expected economic life of each item. Since recent interest rates have been fluctuating

rapidly, the conversion has been done on the basis of two rates, 10% and 15%, to illustrate a potential range of annual equivalent costs depending on future interest or discount rates.

One further simplification has been used. The total capital cost for construction items includes provision for mobilization, camp operations, engineering/administration, and contingencies. Rather than recalculate each item, the total cost has been apportioned to each item to be amortized on the basis of the percentage of total cost it represents, excluding the variable items. Also, no salvage or residual value has been assumed at the end of the life cycle.

Since the costs represent an annual equivalent, a useful life must be established for each item. For the purposes of this analysis, the following useful life periods have been used:

Highways	40 years
Bridges and Tunnels	50 years
Rail Improvements	50 years
Buildings and Appurtenances	30 years
Rolling stock	20 years

Applying these factors to the capital costs shown in Tables XI and XII produces the annual equivalent cost for each alternative shown in Table XVII. The annualized capital costs from Table XVII must be combined with annual O/M costs from Tables VII, VIII, IX and X to produce total annual cost; and then compared to the capacities of the various alternatives shown in Table VI, or maximum person trip demand to obtain a measurable unit.

Some additional discussion is pertinent here to put these values in context. First, the initial service level costs and capacities are used since the length of time before the expanded service levels would be implemented is unknown. As indicated by the capacity available compared to current usage, it could be some time before the demand increased enough to justify the added expense.

The unit of measure usually used to define cost effectiveness is the total person trips, vehicles, vehicle miles or some similar unit projected to be actually carried by the alternative systems. In this case, however, no actual projection of usage for the highway oriented alternatives has been made since that value is so closely tied to development levels in Whittier. At the same time, use of the total available capacity as a measure could produce biased comparisons because the total capacity of alternatives 4, 5 and 6 is well beyond the

TABLE XVII
ANNUAL EQUIVALENT CAPITAL COSTS

ITEM	LIFE	TOTAL COST	ANNUAL COST	
			AT 10%	AT 15%
<u>ALT. #1</u>				
Roads, Pkg, etc.	40	5,476,650	560,000	824,600
Bridge & Tunnel	50	10,764,450	1,085,700	1,616,200
Rail	50	2,266,200	228,600	340,200
Buildings, etc.	30	377,700	40,000	57,500
Equipment	20	1,200,000	141,000	191,700
ANNUAL COST			<u>\$2,055,300</u>	<u>\$3,030,200</u>
<u>ALT. #1-A</u>				
Roads, Pkg. etc.	40	151,980	15,500	22,900
Rail	50	151,980	15,300	22,800
Tunnel	50	6,991,080	705,100	919,100
Buildings, etc.	30	303,960	32,200	46,300
Equipment	20	1,200,000	141,000	191,700
ANNUAL COST			<u>\$909,100</u>	<u>\$1,202,800</u>
<u>ALT. #2</u>				
Roads, Pkg, etc.	40	5,476,650	560,000	824,600
Bridge & Tunnel	50	10,764,450	1,085,700	1,616,200
Rail	50	2,266,200	228,600	340,200
Buildings, etc.	20	3,050,000	358,300	487,300
ANNUAL COST			<u>\$2,278,600</u>	<u>\$3,325,800</u>
<u>ALT. #3</u>				
Roads, etc.	40	4,768,100	487,600	717,900
Bridge & Tunnel	50	31,909,900	3,218,400	4,790,900
ANNUAL COST			<u>\$3,706,000</u>	<u>\$5,508,800</u>
<u>ALT. #4</u>				
Roads, etc.	40	4,504,100	460,600	687,100
Bridge & Tunnel	50	59,839,900	6,035,400	8,984,300
ANNUAL COST			<u>\$6,496,000</u>	<u>\$9,862,400</u>
<u>ALT. #5</u>				
Roads, etc.	40	4,779,700	488,800	719,600
Bridge & Tunnel	50	63,501,300	6,404,700	9,534,000
ANNUAL COST			<u>\$6,893,500</u>	<u>\$10,253,600</u>
<u>ALT. #6</u>				
Roads, etc.	40	35,915,300	3,672,700	5,407,500
Bridge & Tunnel	50	11,917,700	1,202,000	1,789,300
ANNUAL COST			<u>\$4,874,700</u>	<u>\$7,196,800</u>

maximum projected demand at full Whittier development. Similarly, the initial rail alternatives do not have an adequate capacity to accommodate that demand level, should it actually occur.

Therefore, for the purposes of this analysis, the available capacity has been used for those alternatives which are capacity constrained, and maximum projected demand has been used for those with excess capacity. Thus, the comparison is made on the basis of the maximum number of person trips that could or are likely to be made on each alternative.

In that context, Alternative No. 3 is the only marginal Alternative. As shown in the discussion on capacity, this Alternative could accommodate up to about 4800 vehicles per day. Therefore, at about 3.6 persons per vehicle on the average, that Alternative could accommodate the projected maximum demand. While that value represents a high average, the projected maximum demand also represents the average peak day, and therefore, on most days of the year, this Alternative could accommodate the demand.

Estimating the annual demand based on the projected peak day is the last step in determining the cost effectiveness. To accomplish that estimate, the relationship between observed peak days and average annual traffic on the Seward Highway has been

used. Since Whittier demand is highly related to Anchorage, the count station at Potter Creek has been used to determine the appropriate relationship.

During 1978, the average of the ten highest traffic days was 229.4% of the annual average daily traffic. Assuming a uniform vehicle occupancy over the year, and applying that traffic relationship to the projected peak demand for person trips (17,140) produces an annual average daily person trip demand of 7,472 person trips or about 2,727,000 person trips per year. For the capacity limited systems, the comparable value is represented by the daily system capacity times the number of days operated. Since operating costs used are based on the three day winter schedule, a total of 225 days per year has been used to determine system capacity.

The estimated cost effectiveness of the various Alternatives expressed as cost per trip is shown in Table XVIII. As shown in that table, under the assumptions used, Alternative No. 3 with a per trip cost of from \$1.50 to \$2.16 is the least costly, while Alternative No. 2 at from \$5.32 to \$7.15 per trip is the highest.

That relationship is, however, somewhat misleading in that capacity of the rail based alternatives can be readily doubled by the simple addition of two more coaches per train. In addition, revenue generated by fares would offset much of the

cost. For example, if the rail Alternatives operated at capacity and generated the average per trip revenue for passengers only of \$3.96 experienced in 1979, the per trip costs in Alternative 1-A would be completely offset even at the highest interest rate and Alternative 1 would produce a net cost of less than eighty (80¢) cents per trip at the high interest rate with all costs offset at the lower rate. There are no corresponding revenues to offset costs in the highway Alternatives.

~~In Whittier instead of Anchorage. This would add slightly to Whittier's economy directly, since crews would be based in the community.~~

Environmental

Alternative No. 3 - One-way Joint Use of Existing Tunnel

Alternatives 3 through 6 permit direct access by automobile to Whittier. Secondary impacts due to auto congestion in Whittier, including parking and safety problems, will be significant, particularly during peak summer weekend travel periods. The community will have to bolster its public safety force and city planning capabilities in order to successfully mitigate auto-related secondary impacts.

A major primary impact of Alternatives 3 through 5 concern air quality and safety problems within the tunnel itself. Alternatives 3 through 5 will require adequate ventilation systems, emergency telephones, and fail-safe mechanisms to ensure trains and autos are never in the tunnel simultaneously. A one-way tunnel presents serious fire dangers; particularly if traffic is stalled, and cannot pass or reverse direction in the event of fire. Long waiting times at each portal could cause air quality degradation.

Alternative No. 4 - Widened Tunnel - Two-way Joint Use

This option has most of the direct and secondary implications associated with Alternative No. 3. While construction costs

are the highest for any alternative except for an entirely new tunnel, this option avoids the need for waiting on either end for on-coming traffic.

Alternative No. 5 - New Highway Tunnel - Two-way

Alternatives 4 through 6 are major construction projects requiring two or more construction seasons to complete. Each of these alternatives will require a major environmental impact statement to be prepared and evaluated as part of the decision-making process. Environmental impacts include the requirement for construction camps and staging areas, air and water quality problems due to siltation, dust, etc., and the need to dispose of massive quantities of rock and borrow material.

Alternative No. 6 - Portage Pass Highway

As stated previously, a decision to construct a Portage Pass highway can only be made following a lengthy environmental impact statement planning process. This option would be extremely controversial because: 1) it would involve constructing a road through a currently roadless area in the National Forest; 2) it is highly unlikely the road could be used regularly in winter; 3) it would alter the present landscape as seen from the Portage Glacier visitors center; and 4) several other alternatives are available which avoid these problems.

- o The access period could be extended up to "round-the-clock" when demand justified.
- o Because of shorter shuttle distances, fares may be reduced.
- o The system will create a small number of permanent jobs
- o It opens Bear Valley to recreational use and to more spectacular views of Portage Glacier.
- o Its selection would not eliminate the future choice of another alternative.

The Disadvantages of alternative No. 2 are:

- o It allows no direct automobile access
- o It still requires auto shuttle, with their related facilities
- o The operating costs are highest of all alternatives
- o The excess operating costs must be subsidized
- o User must adhere to schedule

Advantages & Disadvantages

Alternative No. 3 - One-way Joint Use of Existing Tunnel

This alternative would provide direct auto access through the existing tunnel between Whittier and Bear Valley. A ceiling would be constructed along with other surface improvements and a roadway would be paved that would allow both rail traffic and rubber wheeled traffic in one direction at a time, controlled by gates and signals. Because this alternative could cause disruption of rail service it would be less favorable than

other alternatives. The alternative, while allowing direct vehicle access, and eliminating the need for a vehicle shuttle, would save the user vehicle shuttle fees. The collection of tolls, however, could partially reduce this advantage for the user.

Access, however, would be governed by a fixed or variable schedule and wait time could be much greater during rush periods than with the improved shuttle alternatives.

The Advantages of Alternative No. 3 are:

- o It allows direct auto access to and from Whittier
- o It allows scheduled and conditional 24 hour, 7 day access
- o It eliminates dependency on rail shuttle
- o It is the least costly of the direct auto access alternatives
- o It opens Bear Valley to recreational use and Portage glacier to close up vantage points
- o Its selection would not eliminate the choice of another alternative at a future date
- o It is compatible with a passenger shuttle service