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# COMMITTEE REPORT

3/24/75

HOUSE

Mr. Speaker:

Date 4/1/75

The Committee on JUDICIARY has had CS 96 am

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>

Members NOT concurring in the Majority report:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

[Signature] Chairman

Original sponsor: Hohman

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 96 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the sale of subsistence caught  
7 salmon eggs."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. INTENT. (a) It is the intent of sec. 2 of this Act to  
10 permit the sale or trade of salmon roe under strict permit and regulatory  
11 provisions to assure the health of subsistence economies in areas where such  
12 use will not jeopardize or interfere with the maintenance of existing salmon  
13 stocks.

14 (b) It is the intent of sec. 3 of this Act to control the waste of  
15 salmon resources.

16 \* Sec. 2. AS 16.05 is amended by adding a new section to read:

17 Sec. 16.05.827. SALE OF SUBSISTENCE SALMON ROE. (a) Notwith-  
18 standing 940(17) of this chapter, the board may adopt regulations  
19 permitting the sale of subsistence salmon roe under conditions the board  
20 considers advisable.

21 (b) The board may permit subsistence salmon roe sales under (a) of  
22 this section if

23 (1) the accustomed contribution of salmon to particular sub-  
24 sistence economies will be maintained, as modified by current needs; and

25 (2) subsistence salmon roe sales will not jeopardize or  
26 interfere with the maintenance of salmon stocks on a sustained yield  
27 basis.

28 (c) No person may purchase or trade for or attempt to purchase  
29 or trade for subsistence salmon roe unless he possesses an annual permit

1 issued by the commissioner. The commissioner may specify terms and  
2 conditions of a permit required under this section. No license, entry  
3 permit or interim permit is required for the specific act of selling  
4 subsistence salmon roe. No person may purchase or transport or attempt  
5 to purchase or transport salmon roe which he knows or has reason to know  
6 was taken in violation of this section or regulations adopted under it.

7 (d) If the commissioner finds that sale of subsistence salmon roe  
8 is resulting in waste of salmon carcasses, damage to salmon stocks, or  
9 circumvention of salmon management programs, he may close any or all  
10 areas to subsistence salmon roe sale by emergency order. If the com-  
11 missioner finds that the subsistence catch in an area exceeds or is  
12 likely to exceed, by 10 per cent, the 1974 subsistence catch for that  
13 area, he shall close that area to subsistence salmon roe sale by emer-  
14 gency order.

15 (e) Original purchasers of subsistence salmon roe shall record  
16 information required by the department on fish tickets supplied by the  
17 department.

18 (f) The board may adopt regulations it considers necessary for the  
19 administration of this section. The board may delegate its authority  
20 under this section to the commissioner.

21 (g) A person who violates this section or a regulation adopted  
22 under it is subject to a fine of not more than \$10,000, or imprisonment  
23 for not more than six months, or both.

24 (h) In this section, "subsistence salmon roe" means salmon roe  
25 incidentally obtained as an unavoidable by-product of lawful subsistence  
26 fishing.

27 \* Sec. 3. AS 16.05 is amended by adding a new section to read:

28 Sec. 16.05.831. WASTE OF SALMON. (a) It is unlawful for a person  
29 to waste salmon intentionally, knowingly, or with reckless disregard for

1 the consequences. In this section, "waste" means the failure to utilize  
2 the majority of the carcass, excluding viscera and sex parts, for  
3 salmon which are to be

4 (1) sold to a commercial buyer or processor;

5 (2) utilized for consumption by humans or domesticated  
6 animals; or

7 (3) utilized for scientific, educational, or display purposes.

8 (b) The commissioner may authorize other uses of salmon upon  
9 request if he finds that to do so would be consistent with maximum and  
10 wise use of the resource.

11 (c) A person who violates this section or a regulation adopted  
12 under it is subject to a fine of no more than \$10,000, or imprisonment  
13 for ~~not more~~ <sup>up to</sup> than six months, or both. In addition, a person <sup>who is financially</sup> who vio- <sup>capable</sup>  
14 lates this section is subject to a civil action by the state for the  
15 cost of replacing the salmon wasted.

16 \* Sec. 4. Sections 1(a) and (2) of this Act expire January 1, 1977.  
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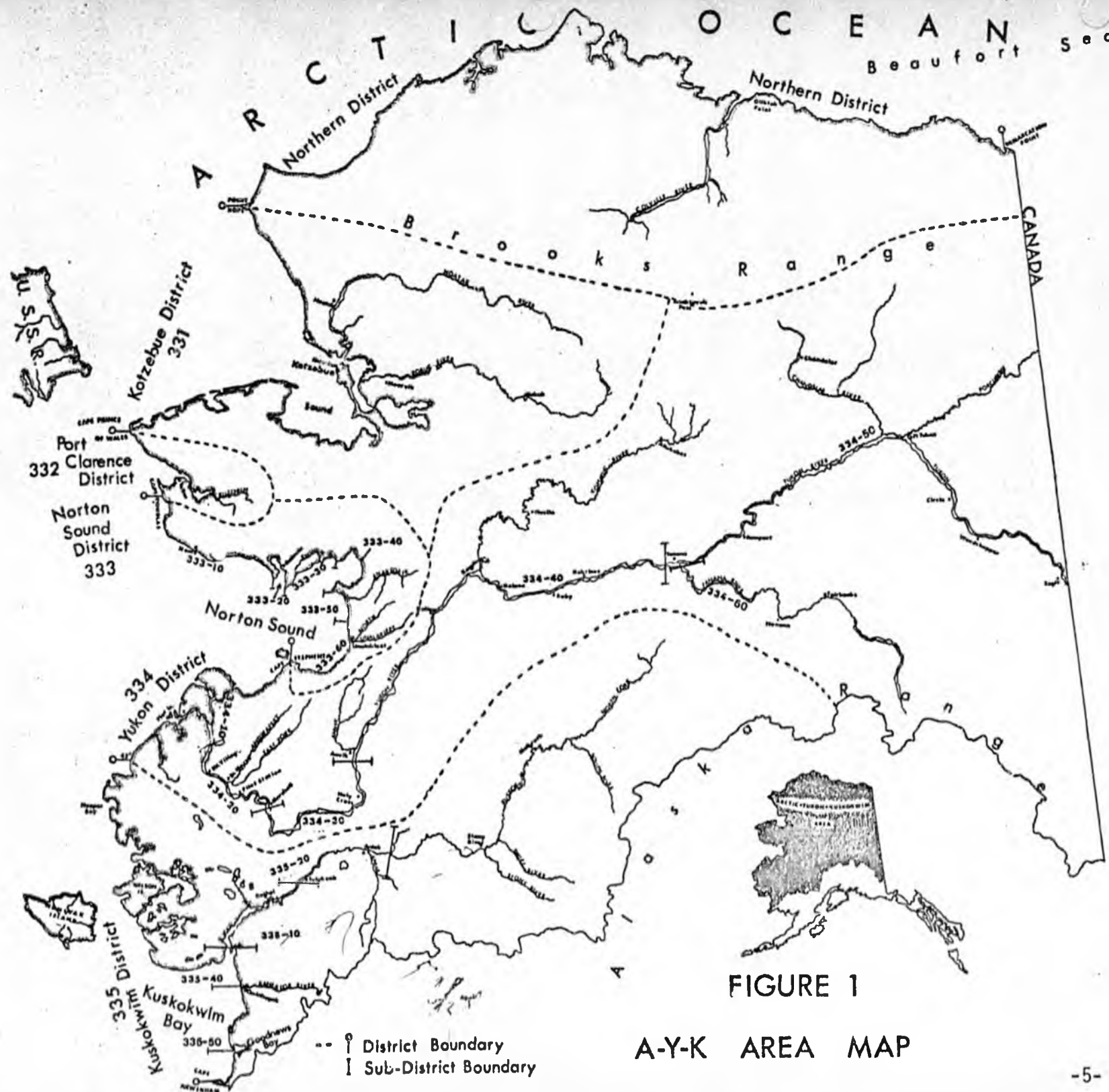


FIGURE 1

A-Y-K AREA MAP

The 1974 commercial catches made in each management area are shown below:

<u>Area</u>	<u>King</u>	<u>Red</u>	<u>Coho</u>	<u>Pink</u>	<u>Chum</u>	<u>Total</u>
Kuskokwim	30,700	29,000	179,300	60,000	196,100	495,100
Yukon	96,900		16,800		877,400	991,100
Norton Sound	2,500		1,800	147,900	149,800	302,000
Kotzebue					631,200	631,200
Totals, 1974	<u>130,100</u>	<u>29,000</u>	<u>197,900</u>	<u>207,900</u>	<u>1,854,500</u>	<u>2,419,400</u>
Previous season record	161,500	13,500	174,500	147,000	1,196,700	1,576,100
5-year average (1969-72)	148,800	8,800	96,300	56,000	717,200	1,026,000

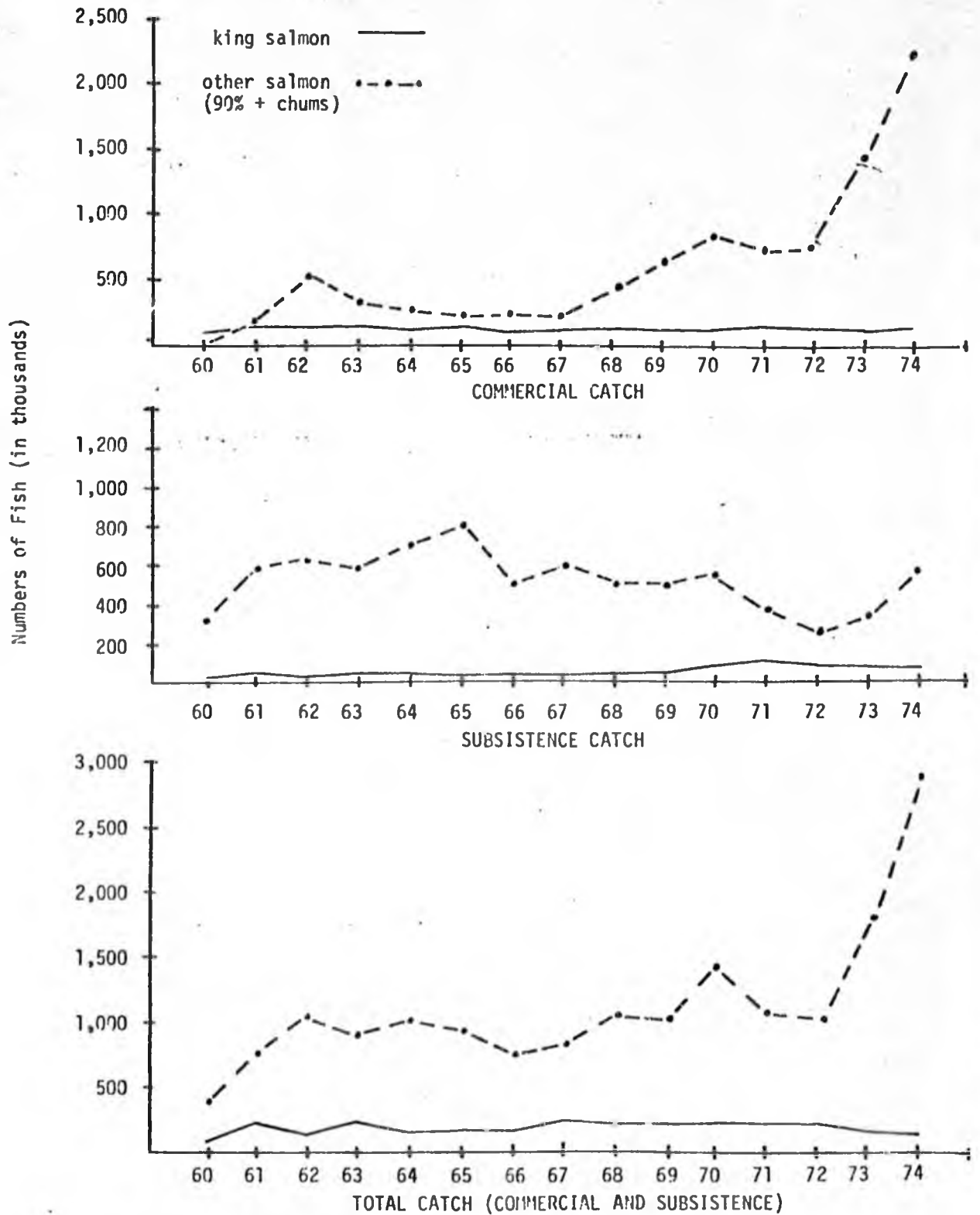
Commercial harvests in the region have increased about thirty times since 1960. Recent increases have been largely due to development of chum salmon fisheries in the Yukon River, Kuskokwim River and Kotzebue areas.

The region-wide license registration in 1974 of 2,685 commercial, 2,042 vessel and 2,285 gear licenses was a record high total. License registration in the region increased at a rate of about 6 percent annually during the 1968-72 period. In 1973, the rate increase over the previous year was 15 percent for vessel and 12 percent for gear licenses. In 1974 vessel and gear license registration increased 24 and 16 percent respectively over that for 1973. Most of this increase was in the Kuskokwim and Kotzebue areas. This expansion is largely the result of increasing numbers of subsistence fishermen who are beginning to also participate in the commercial fishery. The vast majority of commercial fishermen are Eskimo and Indian residents of the region.

Trends in license registrations and commercial harvests in the region during 1960-1974 are illustrated in Figure 2.

Figure 3 shows commercial, subsistence and total catches of king and other salmon species made in the region during 1960-1974:

Figure 3. Commercial, subsistence and total catch in numbers of salmon for the Arctic-Yukon-Kuskokwim region, 1960-1974.



SALE OF ROE FROM SUBSISTENCE-CAUGHT SALMON  
IN THE ARCTIC-YUKON-KUSKOKWIM REGION, 1974

Background

In years past when native people were experiencing a pure subsistence type of livelihood, all or nearly all portions of fish captured were probably utilized. Salmon roe was consumed by people with probably greater quantities fed to their sled dogs. Due to recent changes in employment and welfare opportunities, there has been a gradual decline in the dependence upon subsistence fishing. Replacement of the sled dog with the snowmachine has had a very significant effect in regards to utilization of chum salmon and roe. From reports received from various village residents, much of the roe taken from subsistence caught salmon in recent years was discarded. The amount of salmon roe discarded or not utilized has never been documented by the Department. There is no question that wastage of salmon roe was and is occurring, but the Department has been unable to quantify the amount.

There are many problems involving the documentation of the amount of roe utilized and/or wasted in the subsistence fishery. It is believed that some native fishermen continued to store or dry their salmon roe with the intention of some future use, but significant amounts may never be used. With regards to wastage, most fishermen would be hard pressed to quantify the amount of roe retrieved from their salmon catch, the amount consumed or the amount wasted.

Beginning with the 1973 season, nearly all commercial salmon buyers in the Kuskokwim area and a few buyers in the upper Yukon area augmented their roe production to some extent from subsistence channels. It was estimated, for example, that illegal sales of subsistence roe in 1973 represented

10-15 percent of the reported commercial roe production in the Kuskokwim area. Illegal sale of salmon roe from subsistence caught salmon was not a problem in the remainder of the region during 1973.

Three different bills were introduced in last year's Legislature that involved legalization of the sale of subsistence caught salmon roe. None of these bills passed as they remained in committee through adjournment.

Department staff members have discussed the issue of subsistence roe sales with A-Y-K region fishermen on many occasions, most recently during spring and fall public meetings. Most A-Y-K fishermen are in favor of legalizing these sales for the following reasons: (1) There is no other use for the roe; (2) Roe sales would provide extra income for wives and children of fishermen.

In the spring of 1974 it was apparent that several buyers were gearing up to purchase even larger amounts of subsistence roe. Both the Departments of Fish and Game and Public Safety assigned additional personnel for fishery patrol in an attempt to minimize the illegal sale of subsistence roe. The major thrust of the enforcement program was increased surveillance of buying and processing stations. News releases and notices were issued to clarify existing regulations.

An emergency regulation with an effective date of June 15, 1974 was issued by the Commissioner which allowed the sale of subsistence salmon roe in the A-Y-K region. Issuance of the emergency regulation was coincidental with the beginning of the salmon runs. A copy of this emergency regulation is attached as Appendix I.

This emergency regulation was in effect for 120 days or until October 13, 1974. Therefore, the sale of subsistence roe is presently illegal and will

continue so through the 1975 season unless changed by further regulation and/or legislation.

All buyers filing Intent to Operates for the A-Y-K region in 1974 were sent a letter notifying them of the emergency regulation. This letter also contained instructions for documenting subsistence roe data on fish tickets. In addition to most information required on regular fish tickets, the number of roe skeins and pounds of roe by species was required.

#### A-Y-K Regional Summary, 1974 Season

Table 1 presents volume, value, numbers of fishermen and estimated numbers of salmon harvested associated with the sale of subsistence roe for each management area. In 1974, a total of 182,428 pounds of roe was sold, bringing fishermen an estimated \$216,940 in earnings. The estimated first wholesale value of this production was \$550,000. A subsistence harvest of 432,766 salmon was derived from the volume of roe sold.

By comparison, approximately 422,000 pounds of processed salmon roe was reported as commercial production in 1973. This included a small undetermined volume of illegal subsistence roe. Commercial roe production for 1974 is not yet available.

The majority of the subsistence roe came from the Kuskokwim area (73 percent by weight) and the upper Yukon area (26 percent by weight). A small amount was sold in the vicinity of Nome in the Norton Sound area. No sales of subsistence roe were recorded in the following locations: (1) Norton Sound area (except Nome); (2) Kotzebue area including Kobuk and Noatak Rivers; (3) Upper Kuskokwim River drainage upstream from Kalskag; (4) Koyukuk, Chandalar and Porcupine drainages of the Yukon River; (5) Upper Yukon River drainage upstream from Stevens Village.

Table 1 . Subsistence salmon roe sales data, A-Y-K Region, 1974.

	Kuskokwim Area	Yukon Area <sup>1/</sup>	Norton Sound Area	Totals
<u>Pounds of raw product</u>				
King	34,581	468	249	35,298
Chum	<u>98,602</u>	<u>46,901</u>	<u>1,627</u>	<u>147,130</u>
Total	133,183	47,369	1,876	182,428
<u>Number of fishermen</u>	1,438	186	-	-
<u>Value to fishermen</u>	\$180,000	\$35,533	\$1,407	\$216,940
<u>Average value/fisherman</u>	\$125	\$191	-	-
<u>Nos. of fish estimated from roe poundages</u> <sup>2/</sup>				
King	20,342	283	150	20,775
Chum	<u>313,024</u>	<u>93,802</u>	<u>5,165</u>	<u>411,991</u>
Total	333,366	94,085	5,315	432,766

1/ Minimum poundages as sale of roe from subsistence caught salmon by licensed commercial fishermen not included.

2/ Based on sex ratios of 1:1 and average roe wts/fish of 3.4 lbs. for Kuskokwim and Norton Sound kings; 3.3 Yukon kings; .63 Kuskokwim and Norton Sound chums; 1.0 Yukon chums.

### Kuskokwim Area, 1974 Season

Tables 2 through 5 show volumes of subsistence roe sold in each sub-district. Estimates of the subsistence harvests were derived from these sales and this information is also included in the above tables. Numbers of persons in each village selling subsistence roe are shown in Table 6.

Within the first two days of legalized sales, more than 2,300 pounds of subsistence roe were sold. Sales increased until a peak of more than 40,000 pounds were purchased during the week of June 17-23. By mutual agreement, the major buyers ceased active recruitment of subsistence roe after July 27. The reason given for this was that further roe sales may have resulted in discarding of carcasses due to the large subsistence catches made by that date.

A total of 5,616 separate sales of subsistence roe was made by 1,438 persons. A total of 34,581 pounds of king salmon roe and 98,602 pounds of chum salmon roe totaling 133,183 pounds was sold. The vast majority of these sales or 122,173 pounds occurred in subdistrict 1 (lower Kuskokwim River) with lesser amounts occurring in subdistrict 2 (middle Kuskokwim River), subdistrict 4 (Quinhagak) and subdistrict 5 (Goodnews Bay).

Estimated value of subsistence roe to the fishermen was \$180,000 for an average of \$125/fisherman. Roe prices ranged from \$1.25-\$1.50 per pound with greater prices paid for chum salmon roe. The first wholesale value of the subsistence roe pack was estimated at \$400,000. The major buyer/processor realized a value of \$270,000.

Numbers of salmon were "back calculated" from reported subsistence roe poundages. Therefore, estimates of the subsistence harvest were made as the season progressed. These derived catches represent minimum figures as all roe from subsistence caught salmon was probably not sold. These calculations

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ORIGINAL.

ated that a minimum of 20,336 king and 313,024 chum salmon were captured in the vast majority taken in the Kuskokwim River. These estimates are similar to catches obtained from an independent survey of the subsistence fishery which has been made annually since 1960. It was apparent that by early 1974, the estimated Kuskokwim River subsistence chum salmon harvest had surpassed the 1973 harvest and was one of the largest harvests made since 1960.

Numerous reports were received of discarded carcasses, but the staff was able to document only one such case involving 300-500 carcasses. Roe from a single chum salmon was worth about \$.95 compared to \$1.25-\$1.50 for the carcass when sold in the usual commercial channels. Therefore the incentive to sell roe and discard the carcass was always present. There is no "wanton waste" provision for either commercial or subsistence fishing and violators cannot be cited or prosecuted.

Another more subtle form of wastage was brought to the Department's attention by some fishermen. Although the vast majority of fishermen preserve their subsistence catches, the magnitude of some catches will prevent them from using all the fish before next spring when the remaining fish are likely to be disposed of.

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Table 2 . Subsistence salmon roe sales data by subdistrict, Kuskokwim area, 1974.

Subdistrict	Kings		Chums	
	Pounds of Roe	Est. Nos. of Fish	Pounds of Roe	Est. Nos. of Fish
335-10	28,530	16,782	93,643	297,280
335-20	3,932	2,312	4,861	15,432
335-40	1,631	960	93	296
335-50	488	282	5	16
TOTAL	34,581	20,336	98,602	313,024



Table 4. Subsistence roe data, Kuskokwim River chums, 1974

Date	Roe Sales in Pounds		
	335-10	335-20	Total
6/10 - 6/16			
6/17 - 6/23	395	28	420
6/24 - 6/30	30,444	1,485	31,929
7/1 - 7/6	30,137	642	30,779
7/7 - 7/13	22,567	531	23,098
7/14 - 7/20	9,474	471	9,945
7/21 - 7/27	626	1,704	2,330
TOTALS	93,643	4,861	98,504

Estimates of Numbers of Salmon <sup>1/</sup>

$$\begin{array}{rcl}
 335-10 & \frac{93,643 \text{ lbs. roe}}{0.63 \text{ lbs. roe/female}} = & \begin{array}{l} 148,640 \text{ Females} \\ 148,640 \text{ Males} \\ \hline 297,280 \text{ Chums} \end{array}
 \end{array}$$

$$\begin{array}{rcl}
 335-20 & \frac{4,861 \text{ lbs. roe}}{0.63 \text{ lbs. roe/female}} = & \begin{array}{l} 7,716 \text{ Females} \\ 7,716 \text{ Males} \\ \hline 15,432 \text{ Chums} \end{array}
 \end{array}$$

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$$\begin{array}{rcl}
 \text{TOTAL} & & 312,712 \text{ Chums}
 \end{array}$$


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<sup>1/</sup> Based on average roe weight per female of .63 lbs and 1:1 sex ratio.

Table 5 . Subsistence roe data, Quinhagak and Goodnews Bay, 1974.

	Pounds of Roe	
	subdistrict 4 (Quinhagak)	subdistrict 5 (Goodnews Bay)
King	1,631	488
Chum	<u>93</u>	<u>5</u>
Total	1,724	493

Estimates of Numbers of Salmon <sup>1/</sup>

Quinhagak:	<u>1,631 lbs. roe</u>	=	480 Females
	3.4 lbs. roe/female		<u>480 Males</u>
			960 Kings
	<u>93 lbs. roe</u>	=	148 Females
	.63 lbs. roe/female		<u>148 Males</u>
			296 Chums
Goodnews Bay:	<u>488 lbs. roe</u>	=	141 Females
	3.4 lbs. roe/female		<u>141 Males</u>
			282 Kings
	<u>5 lbs. roe</u>	=	8 Females
	.63 lbs. roe/female		<u>8 Males</u>
			16 Chums

<sup>1/</sup> Based on average roe weight per female of 3.4 lbs for kings and .63 lbs for chums; 1:1 sex ratio.

Table 6 . Numbers of people by village that sold roe from subsistence caught fish, Kuskokwim area, 1974.

Village	No..of People	Percent
Kwigillingok	3	0.3
Kipnuk	2	0.2
Kongiganak	3	0.3
Tuntutuliak	45	5.0
Chefornak	1	0.1
Eek	50	6.3
Chuathbaluk	3	0.3
Kasigluk	3	0.3
Nunapitchuk	9	1.0
Atmauthluak	2	0.2
Napakiak	52	5.5
Oscarville	35	3.7
Napaskiak	88	9.4
Bethel	158	16.8
Kwethluk	163	17.4
Akiachak	84	8.9
Akiak	68	7.2
Tuluksak	27	2.9
Kalskag (Urper & Lower)	32	3.4
Aniak	42	4.5
Quinhagak	59	6.3
Subtotal	939	100.0
Village not entered on fish ticket	499	
TOTAL	1,438	

## Yukon Area, 1974 Season

Table 7 presents subsistence roe sales data for each subdistrict. There was 468 pounds of king salmon roe and 46,901 pounds of chum salmon roe totaling 47,369 pounds sold by 186 fishermen. The majority of these sales were made by subsistence fishermen (not commercially licensed) and a few licensed commercial fishermen that fished for subsistence after the close of the commercial season.

An unknown amount of subsistence roe was included with the "commercial production" which totaled 36,766 pounds (2,184 pounds king roe, 34,582 pounds chum roe) in subdistricts 4, 5 and 6. This was roe sold by commercial fishermen from fish captured during weekly closures of the commercial fishery. Therefore, the subsistence roe poundages represent minimum figures.

The documented 47,369 pounds of subsistence roe sales earned fishermen about \$35,500 or an average of \$191 per fisherman. A total of 16 buyers purchased subsistence roe that had an estimated first wholesale value of \$142,000. The major buyer/processor in the area realized an estimated first wholesale value of \$93,000 from subsistence roe.

There were no sales of subsistence roe in subdistrict 1 and only 239 pounds in subdistrict 2. Nearly all the fishermen in these two subdistricts are commercial fishermen and in addition, subsistence fishing is prohibited during weekly commercial fishing closures.

The greatest amounts of subsistence roe was sold in subdistrict 4 which also had the greatest number of participants. Relatively small amounts were sold in subdistricts 3 and 5 probably due to the remoteness of most fishermen precluding regular tendering by buyers.

It is difficult to assess the impact of allowing the sale of subsistence caught salmon roe on the Yukon River fishery. Preliminary 1974 figures indicate that in excess of 271,000 salmon were taken for subsistence. This is a 30 percent increase over the 1973 harvest and a 28 percent increase over the previous 5-year annual average harvest. The sale of subsistence caught roe and a large summer chum salmon run were probably both contributing factors to the large subsistence harvest in 1974. Also, the river was low and fishing conditions were judged excellent.

Subsistence roe poundages were entered on fish tickets but could not always be separated from roe sold by commercial fishermen (either from commercially captured fish or from fish taken for subsistence during commercial fishing closures). Some of the subsistence roe was not identified as to species on fish tickets.

There were no documented instances of fish being taken for roe only and the carcasses being discarded although there were unsubstantiated reports of this occurring in the Anvik-Grayling area. It is likely that some individuals engaging in the sale of subsistence roe this season captured salmon in excess of their needs.

Table 7. Subsistence salmon roe sales data, Yukon area, 1974

Subdistrict	Pounds of Roe			No. of Fishermen	Value to Fishermen	Estimated Nos. of Salmon <sup>1/</sup>		
	King	Chum	Total			King	Chum	Total
1								
2		239 <sup>2/</sup>	239 <sup>2/</sup>	10	\$179		478	478
3		4,103 <sup>1/</sup>	4,103 <sup>1/</sup>	25	\$3,077		8,206	8,206
4	51	23,493	23,544	91	\$17,665	31	46,986	47,017
5	238	3,282	3,520	36	\$2,640	144	6,564	6,708
6	179	15,784	15,963	24	\$11,972	108	31,568	31,676
TOTAL	468	46,901	47,369	186	\$35,533	283	93,802	94,085

<sup>1/</sup> Based on average roe weights of 3.3 lbs for kings and 1.0 lbs for chums and 1:1 sex ratios.

<sup>2/</sup> Species not identified by buyers; assumed to be all chums.

## Discussion

Traditionally, the subsistence salmon fishery was naturally limited by the personal food requirements and the numbers of salmon that could be handled in a day and hung to dry or smoke during the season. These restraints do not apply to a commercial fishery where the profit motive is paramount.

A possible consequence resulting from the authorization of sale of subsistence caught salmon roe is that the concept and future direction of subsistence fishing may be permanently altered. Present subsistence fishing regulations in the A-Y-K Region are quite liberal which is in recognition of the traditional personal needs of the large native population. If the sale of subsistence caught salmon roe is permanently authorized and subsistence fishermen begin making harvests in excess of recent traditional levels, then a new management strategy must be developed. There are two main options to pursue in this event, i.e., restricting the subsistence harvest or restricting the commercial harvest to bring the total harvest in line with optimum sustained yield. If subsistence fishing requires further restriction, many persons with genuine subsistence needs will be adversely affected by others who are much less dependent on a subsistence livelihood, but continue to fish mainly for the purpose of selling roe.

Another consideration is that the monetary value of such a fishery in terms of local economy should greatly exceed the cost of establishing and monitoring the fishery. In some areas the reverse will be true.

The effect of allowing the sale of subsistence roe on the 1974 subsistence fishery remains unclear. Kuskokwim and Yukon River subsistence chum salmon catches were significantly larger than recent year levels. Both the large salmon run and increased effort due to the opportunity to sell roe

were probably factors contributing to the large subsistence harvests in 1974.

If the sale of subsistence roe is authorized for the 1975 season, it should be more rigidly controlled similar to any commercial enterprise and only authorized initially in relatively few areas.

Several options involving greater control seem worthy of discussion and include the following:

1. If the sale of roe from subsistence caught fish is authorized, it should pertain only to salmon. There will be more than enough problems involved with these species without the inclusion of the entire fishery fauna of the A-Y-K Region. Also, only the salmon resource is sufficiently abundant to withstand commercial utilization in addition to subsistence fishery requirements.

2. A new regulation or statute defining wanton waste of fish and establishing fines or penalties should be promulgated. The suggested wording would be similar to the statute referring to waste of wild animals (16.30.010.) "a person who intentionally captures fish for any purpose and does not make a reasonable attempt to utilize most of the usable flesh, excluding the viscera and sex products, for human and animal consumption is guilty of a misdemeanor and upon conviction, is punishable by a fine of not more than \$500 or by imprisonment for not more than six months or by both." Care must be taken in the wording of this so that the discarding of roe, viscera, etc., is not in violation of the newly written law or regulation. Large-scale discarding of the fish carcasses merely for the sale of the roe cannot be tolerated and any authorized sale of subsistence caught roe would be prohibited by emergency order during the season in this event.

3. The sale of roe from subsistence caught salmon should be allowed only in areas presently open to commercial fishing. This would prevent the

expansion of subsistence fishing solely for salmon roe and would protect spawning areas from this practice. Also, by confining this practice to present commercial fishing areas, the Department staff can better monitor the fishery and enforce associated regulations. This would prohibit the sale of roe from subsistence caught fish in all spawning areas throughout the region and all tributary streams of the Kuskokwim and Yukon Rivers except the Tanana River below its confluence with the Chena River. Most of the areas excluded can be characterized by (1) remoteness and (2) small traditional subsistence salmon harvests.

4. In specific areas, allow the sale of roe from subsistence caught salmon only during commercial fishing seasons and during regular commercial fishing periods. This will also prevent the expansion of the subsistence fishery solely for the purpose of sale of roe and insure adequate spawning escapements during the season.

5. Allow the sale of roe from subsistence caught fish only after the king salmon run or season is completed. This in effect could be labeled a "special roe season." The king salmon runs are already extensively harvested and there are indications that these runs are depressed at the present time. The runs of other species of salmon are comparatively more abundant, have less fishing effort and some can probably withstand a small increase in utilization. If the authorization of sale of subsistence caught roe results in an increase above traditional harvest levels, then these runs would have to be managed more conservatively in the future. This method may have most merit in the Yukon-Kuskokwim areas where king salmon runs are present.

6. Establish a roe quota in each management area based on recent subsistence harvest levels. Reasonable estimates can be made of the salmon roe production (numbers of skeins and/or poundage) resulting from recent subsistence harvest levels using known catches and sex ratios. Once these quotas are taken, the sale of roe from subsistence caught salmon would be prohibited for the remainder of the season. This would prevent large-scale expansion of the subsistence fisheries solely for the purposes of selling roe and would assist in maintaining subsistence harvests at recent traditional levels.

7. Due to the vast size of the fishing areas involved, in addition to the large numbers of fishermen and processing stations, enforcement of regulations and monitoring of the fishery associated with the authorized sale of subsistence caught salmon roe would require several additional personnel assigned to the Department. The following additional seasonal employees would be required in each area: (1) Kuskokwim--three employees from June through August; (2) Yukon--three employees from June through September; (3) Norton Sound-Kotzebue--one employee from July through September.

BOARD OF FISH AND GAME  
FINDING OF EMERGENCY

The Board of Fish and Game finds that an emergency exists and that the attached regulation is necessary for the immediate preservation of the public peace, health, safety or general welfare. A statement of the facts constituting the emergency is:

1. A subsistence salmon fishery occurs in the Arctic-Yukon-Kuskokwim area. In 1974, the subsistence salmon catch is expected to be approximately 400,000 fish.
2. The laws and regulations governing subsistence fishing are premised on traditional utilization practices that involved use of the flesh for human food and of the viscera and gonads for dog food. With the advent of snow machines and the rapid decline in numbers of dogs, salmon gonads are now largely extraneous to home requirements and are wasted.
3. Salmon roe has recently increased in value as a commercial product, and as an otherwise useless by-product of subsistence fishing, its sale would be consistent with the expressed state policy of maximized utilization of natural resources and enhancement of the welfare of people in an economically depressed region. Therefore, an emergency regulation that remedies the existing conflict between existing regulations and the best interests of the people and resources is required.

The regulation, SAAC 39.890(d), attached hereto, is therefore adopted as an emergency regulation to take effect immediately upon filing by the lieutenant governor as provided in AS 44.62.180.

DATE

June 14, 1974

James W. Brooks  
James W. Brooks, Secretary  
Board of Fish and Game

I, Henry A. Boucher, Lieutenant Governor for the State of Alaska, certify that on June 15, 1974, at 12:15 P.m., I filed the attached regulation according to the provisions of AS 44.62.040-44.62.120.

Register 51

Henry A. Boucher  
Henry A. Boucher (NEWMAN CORNER)  
Lieutenant Governor, DESIGNEE  
State of Alaska

NOTICE OF ADOPTION OF EMERGENCY REGULATION

Pursuant to the Administrative Procedure Act (Alaska Statutes 44.62) notice is hereby given that the Alaska Board of Fish and Game has adopted the following regulation:

REGULATION PERMITTING THE SALE OF SALMON ROE FROM  
SUBSISTENCE CAUGHT FISH IN THE ARCTIC-YUKON-KUSKOKWIM AREA

5AAC 39.890 RESTRICTIONS.

(d) It is unlawful to buy, sell or barter subsistence caught fish or parts thereof provided, however, that in the Arctic-Yukon-Kuskokwim Area salmon roe incidentally obtained as an unavoidable by-product of legal subsistence fishing may be bought, sold or bartered in quantities directly related to salmon otherwise fully utilized for traditional subsistence purposes.

End of Regulation

IE trends <sup>on week to week basis</sup> indicate catch will go above 1974

How much waste before exercising  
emergency closure

What was catch increase last year

How about limit 10% above 10 year ave  
10% above catch in last 10 years

400,000 lbs roe                      400,000 fish A-4K

polled board - May voted for 1974  
emergency regulation

- 1974 - 422,000 of processed from com. fish  
182,000 of " " " sub "  
\$ 216,900 net worth

only allow 10% above 1974 subsistence  
level

April 7, 1975

Guy A. VanDoren, Staff Assistant  
House Resource Committee  
Fouch V  
Juneau, Alaska 99811

Dear Mr. VanDoren:

For the information of the House Resource Committee, it was a Conference on Rural Legislative Priorities held in Juneau on March 24-25, 1975 and sponsored by the Alaska Federation of Natives, Inc., the Rural Alaska Community Action Program, and the Department of Community and Regional Affairs that considered commercial use of fish roe taken from subsistence fish a low priority piece of legislation. The Conference results are recommendations until ratified by the AFN Human Resource Committee and that is scheduled for April 15, 1975 here in Anchorage.

Reasons for considering the commercial use of fish roe taken from subsistence fish a low priority piece of legislation is concern that we would forget about subsistence and catch for commercial use, therefore depleting further an already endangered species. This would also endanger the subsistence fishing activities in the long run if many violations were proven. Many voiced the opinion they would much rather keep their traditional subsistence fishing activities than to have the annual take regulated by the Department of Fish and Game. Their regulation maintaining salmon stocks on a sustained yield basis hasn't proven very successful throughout the State. In fact, management on a sustained yield basis is often justification for closure. Another real concern is the possibility of all Alaskans catching fish in the name of subsistence entering into the picture and jeopardizing a noble effort on the part of your Committee. There were other arguments in the Fisheries Committee and during the Conference, but the above I believe are the primary reasons.

Once again, we aren't opposed to this piece of legislation, but it has been recommended a low priority item. I expect our Committee to ratify this recommendation next week however.

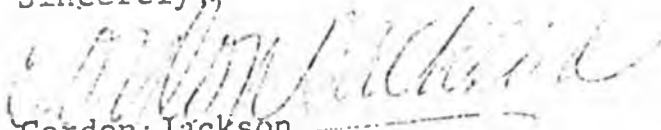
Guy A. VanDoren

2

April 7, 1975

Please let me know if you wish further explanation.  
My best wishes to Chairman Anderson.

Sincerely,



Gordon Jackson  
Executive Vice-President  
Human Resources Administration

GJ:jb

cc: Robert Schaeffer, Chairman, AFN Human  
Resources Committee  
Trefon Angasan, Chairman, Fisheries  
Committee  
Phil Smith, RurAL CAP  
✓Richard Listowski

ALASKA  
STATE LEGISLATURE

MEMORANDUM

3/21

Rep. Anderson,  
Are you certain that you want  
sec. 831 to expire in 1977? It strikes me that  
this is a very valuable general provision for the  
fish code and not really connected to or dependent  
on the preceding provision relating to sale of

eggs.  
Secondly, Confining the sale of eggs to one group of  
subsistence users, excluding others in the same category

ALASKA  
STATE LEGISLATURE

MEMORANDUM

must be able to be justified on a management basis or is surely subject to challenge. I'm assuming that you are prepared to justify it on the basis that sale of eggs elsewhere would in some way jeopardize or interfere with the maintenance of existing stock there. Of course, it would also be permissible if the use ~~is~~<sup>in</sup> another area was not a subsistence use.

Finally, a letter of intent is for the

ALASKA  
STATE LEGISLATURE

MEMORANDUM

purpose of clarifying or explaining something in  
a bill that is unclear or ambiguous.  
~~It is to be noted that~~ a court would <sup>not</sup> controvert the  
clear wording of the statute as generally  
applicable, and read it to apply only  
to the arctic - Kuskokwim area.

I hope this may be of some  
assistance to you.

Joel Bennett

Dear Editor:

The following was sent to Gov. Jay Hammond.

Dear Governor,

Once again I'm compelled to call to your attention an illegal act perpetrated amid the grossest political overtones by a member of your administration, although not during it. And once again one can demonstrate how the professional management of the state's fish and game resources has been subverted in recent years by calculated political manipulation, on behalf of special economic interests and in a manner which is destructive of the state's natural fisheries resources.

Last June 14 Fish and Game Commissioner Jim Brooks promulgated, in the name of the Board of Fish and Game, acting as its secretary, an emergency regulation permitting the sale of roe from subsistence-caught salmon in the Arctic-Yukon-Kuskokwim area. Issuance of the regulation caught

the area's fisheries staff utterly by surprise, and wholly unprepared to cope with its management responsibilities, coinciding as it did with the start of seasonal salmon migrations upstream. However, even had the regulation been promulgated well in advance of the salmon runs, the field staff would have been unable to monitor and manage the subsistence harvests, greatly expanded by the incentive to maximize roe harvests, without the assignment of at least eight additional enforcement personnel in the A-Y-K area.

Subsequent harvest figures show that subsistence salmon catches from the Yukon and Kuskokwim Rivers were substantially larger in 1974 than in recent years. Since the trend in the subsistence catch in the years prior to 1974 was stable or downward, one must deduce that the vastly increased catch in 1974 was in large part attributable to the lure of a new economy based on subsistence-caught salmon roe, thus expanding the 1974 salmon harvest without demonstrably expanding subsistence consumption.

The obvious implication, of course, is that uncounted numbers of salmon were harvested for the purpose of obtaining their roe only, and their carcasses discarded. Although department field personnel were able to document only one case of salmon wastage involving some 500 fish, there were many undocumented reports of wastage which went unconfirmed by the department because there were insufficient enforcement officers in the field to monitor the harvests.

The economic incentive for the sale and purchase of subsistence-caught salmon roe, as you know, is considerable. The first wholesale value of the subsistence-caught roe from the

Kuskokwim River alone was estimated at \$400,000, and the major buyer-processor, Kemp-Palucci, a Minnesota-based firm operating out of Bethel, realized a value of \$270,000.

Whereupon, the politico-economic implications visibly intrude. Shortly before the issuance of the emergency regulation, the previous administration received Telegrams from two prominent Minnesota political figures, one of them U.S. Senator Hubert Humphrey, urging Gov. Egan to legalize the sale of subsistence-caught roe. Obviously, Sen. Humphrey and his congressional colleague covertly intervened on behalf of their constituent, a prominent Minnesota fish processor who just happened to be the principal beneficiary of the increased roe harvest in the A-Y-K area in 1974.

It should be noted that although three bills which would have legalized the sale of subsistence-caught salmon roe were introduced in the legislature in 1974, none passed, clearly establishing the legislature's negative intent in this regard. Notwithstanding that clear expression of legislative disapprobation, Commissioner Brooks presumed to issue Emergency Regulation 5AAC 39.830, in the absence of statutory authority. Furthermore—although it's not really relevant, since the regulation was clearly illegal—there is no evidence in the board's minutes that Commissioner Brooks polled the members of the Board of Fish and Game to obtain a quorum consent, which he must do in any case when acting on its behalf as secretary of the board.

Since my experience with your legal department has already shown that one cannot rely upon it for critical and independent evaluation of your administration, I've attempted to establish the illegality of

Commissioner Brooks' actions in this regard. Please note that Title 16 of the Alaska Statutes, 05.940 (17), defines subsistence fishing as "...the taking, fishing or possession of fish, shellfish, or other fishery resources for personal use and not for sale or barter..." (Emphasis added).

Please note also that Title 16.05.920 makes it "...unlawful for a person to take, possess, transport, sell, offer to sell, purchase, or offer to purchase, game or marine aquatic plants, or any part of fish, game or aquatic plants, or a nest or egg of fish and game...unless permitted by this chapter or by regulation made under this chapter." (Emphasis added). Since legislative attempts in 1974 to legalize regulations providing for the sale of sub-

sistence-caught salmon roe under AS Title 16, as noted above, failed to pass the legislature, no such authority presently exists.

Since Commissioner Brooks' illegal actions precipitated a myriad of illegal sales and purchases of subsistence-caught salmon roe, numbering in the thousands, and implicating literally hundreds of persons as accomplices, it seems improbable that the state has any practical recourse in this matter, ex post facto. Nonetheless, I felt these circumstances and their implications should be brought to your attention, in hopes that they will at the very least, preclude any recurrence.

Sincerely,

Joe La Rocca  
Fairbanks, Alaska

# The People

ALASKA FEDERATION OF NATIVES, INC.

1675 C STREET  
ANCHORAGE, ALASKA 99501  
PHONE (907) 271-3611

*Home - Pride in Heritage, Progress*

EXECUTIVE OFFICE

April 7, 1975

Guy A. VanDoren, Staff Assistant  
House Resource Committee  
Touch V  
Juneau, Alaska 99811

Dear Mr. VanDoren:

For the information of the House Resource Committee, it was a Conference on Rural Legislative Priorities held in Juneau on March 24-25, 1975 and sponsored by the Alaska Federation of Natives, Inc., the Rural Alaska Community Action Program, and the Department of Community and Regional Affairs that considered commercial use of fish roe taken from subsistence fish a low priority piece of legislation. The Conference results are recommendations until ratified by the AFN Human Resource Committee and that is scheduled for April 15, 1975 here in Anchorage.

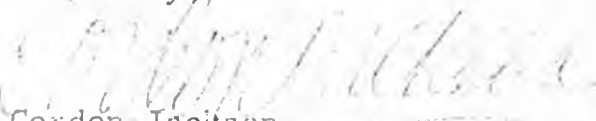
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Once again, we aren't opposed to this piece of legislation, but it has been recommended a low priority item. I expect our Committee to ratify this recommendation next week however.

April 7, 1975

Please let me know if you wish further explanation.  
My best wishes to Chairman Anderson.

Sincerely,

  
Gordon Jackson  
Executive Vice-President  
Human Resources Administration

GJ:jb

cc: Robert Schaeffer, Chairman, AFN Human  
Resources Committee  
Trefon Angasan, Chairman, Fisheries  
Committee  
Phil Smith, RurAL CAP  
✓Richard Listowski

CHAIRMAN  
NELS A. ANDERSON, JR.

STAFF ASSISTANT  
GUY VANDOREN

PO BOX 17  
JUNEAU ALASKA 99801



VICE CHAIRMAN  
TED SMITH

SECRETARY  
BETH O'DONNELL

PHONE 465-2715  
465-2751

## House Resource Committee

FRED BROWN

ALVIN OSTERBACK

DICK ELIASON

LEO RHODE

MIKE HERSHBERGER

LESLIE (RED) SWANSON

JAMES HUNTINGTON

April 3, 1975

Mr. Gordon Jackson  
Alaska Federation of Natives  
1675 C Street  
Anchorage, Alaska 99501

Dear Mr. Jackson:

It has recently come to the attention of the House Resources Committee that A.F.N. has come out against commercial use of fish roe taken from subsistence fish.

The committee passed the fish roe bill out of committee having heard positive testimony from many natives especially in the Yukon-Kuskokwim area.

Although the bill is now in the House Judiciary Committee, we would like to have testimony regarding the reason A.F.N. is in opposition to this bill.

Sincerely,

A handwritten signature in cursive script that reads "Guy A. Vandoren".

Guy A. Vandoren  
for Nels A. Anderson, Jr.  
Chairman-House Resource Committee

WD/td

101

House Judiciary Committee  
April 22, 1975

The meeting was called to order at 7:13 p.m. by Chairman Gardiner. All members were present.

#### HB 314 Outdoor Advertising

Walt Parker, Commissioner of the Department of Highways, testified that the present statute bans signs within 660 feet -- the bill would ban signs visible within 660 feet. The bill is needed to conform to federal statutes. Without it Alaska will lose 10% of federal highway monies - \$10-12 million.

page 1, line 19: delete "secondary"  
page 2, line 14: insert "primary delete "secondary"  
This amendment was to permit advertising on secondary roads which are not funded by federal money.

Mr. Williams of the Department of Highways stated that non-complying signs would be allowed to stand until July 1, 1976. After that date there would be condemnation and compensation paid to the sign owner.

Mr. Bradley moved to adopt the Commerce amendments and move the bill out. Mr. Specking objected.

Mr. Parr moved to amend the motion to delete "or secondary" from the existing laws. Mr. Gardiner objected. The amendment carried.

The bill was moved out as CS with individual recommendations.

#### SB 96 Salmon eggs

Commissioner Brooks stated that last year this bill died in committee. During the summer regulations were adopted permitting the sale of eggs. The Attorney General recommends that this sale be allowed in the statute. Roe are worth from \$1 to \$1.50 a pound. This is wasted if the eggs are not sold. This was why emergency regulations were adopted affecting a limited area. Roe used to be used for dog food, but now there are fewer dogs in the area. 2.4 million subsistence fish were taken last year. This was due to a large chum run.

Jimmy Huntington stated that illegal traffic in roe was minimal in the AYK area, heavier in the Nenana area. Statistics showed illegal sales accounted for 10-15% of the total in areas where Japanese had processing. He favored trying the bill.

House Judiciary Committee  
April 22, 1975  
page 2

page 2, line 10 add: "When the commissioner finds that the subsistence catch in the area exceeds, or is expected to exceed by 10% the subsistence catch of the 1974 season, he shall close that area to subsistence salmon ro. sale by emergency order."

page 1, line 16 add "a" new section  
page 2, line 22 AS 16.05 is amended by adding a new section to read  
page 3, line 11 strike 3, insert 4  
sections 16 1 and 2 of this Act expire  
January 1, 1977

The above amendments were adopted and SB 96 passed out of committee as a CS.

SB 59 Juveniles

Diane Nelson testified that some juvenile offenders cannot be rehabilitated. Citizens should know the names of muntiple offenders. The superior court approves the CS and it was drafted by Associate Justice Boochever. The CS recommends publication of only certain names at the discretion of the court, even after second conviction.